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8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 **CRAIG RICHARD CHANDLER,**

14 Petitioner,

15 v.

16 **SCOTT FRAUENHEIM, Warden,**

17 Respondent.
18

17-cv-00325-EMC

EXHIBITS

19
20 Exhibit 3 State Court Reporter's Transcript (Vols. 7-9)
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EXHIBIT 3

(Vol. 7)

TO THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

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THE PEOPLE OF THE STATE OF)
CALIFORNIA,)

Plaintiff - Respondent,)

v.)

No. C1223754

CRAIG RICHARD CHANDLER,)

Defendant - Appellant.)

COPY

VOLUME 7

PAGES 499 - 554

JULY 11, 2013

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REPORTER'S TRANSCRIPT ON APPEAL
FROM THE JUDGMENT OF THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA
BEFORE THE HONORABLE ARTHUR BOCANEGRA, JUDGE, AND JURY

---o0o---

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: OFFICE OF THE ATTORNEY GENERAL
BY: KAMALA D. HARRIS,
Attorney General of the State
of California

FOR DEFENDANT-APPELLANT: In Propria Persona

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 2 IN AND FOR THE COUNTY OF SANTA CLARA
 3 BEFORE THE HONORABLE ARTHUR BOCANEGRA, JUDGE, AND JURY
 4 DEPARTMENT NO. 37

5 ---o0o---

6
 7 THE PEOPLE OF THE
 8 STATE OF CALIFORNIA,)
 9 PLAINTIFF,) CASE NO. C1223754
 10 v.)
 11 CRAIG RICHARD CHANDLER,)
 12 DEFENDANT.)
 13 _____/

14
 15 ---o0o---

16
 17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18 JULY 11, 2013

19
 20 ---o0o---

21
 22
 23 APPEARANCES:

24 FOR THE PEOPLE: ALISON FILO
 25 Deputy District Attorney
 26
 27 FOR THE DEFENDANT: BRIAN MADDEN
 Attorney at Law
 28 OFFICIAL COURT REPORTER: JAMIE L. MIXCO
 C.S.R. No. 12708

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1 San Jose, California July 11, 2013

2 PROCEEDINGS

3 THE COURT: Thank you. Record will reflect both
4 counsel are present, Mr. Chandler is present, and we're here
5 for initially the 402 hearing, Ms. Filo.

6 MS. FILO: Thank you, Your Honor.

7 THE COURT: Okay. Ready to proceed?

8 MS. FILO: Yes, Your Honor. The People call Hilda
9 Keller.

10 HILDA KELLER,

11 Being called as a witness on behalf of the People,
12 having been first duly sworn, was examined and testified as
13 follows:

14 THE CLERK: Miss, could you please state your full
15 name and spell both for the record.

16 THE WITNESS: Hilda, H-i-l-d-a; Keller,
17 K-e-l-l-e-r.

18 THE COURT: Thank you, ma'am. You could pull that
19 microphone a little closer to you so you don't have to lean
20 over. Pull your chair up a little bit. That might be a
21 little better.

22 As you may know, the lawyers are going to ask you
23 questions. It's important to also listen to the question and
24 make every effort to just answer what is being asked. If the
25 question calls for yes or no, you need to verbally say yes or
26 no. And I think for the purposes of this hearing, that's
27 sufficient.

28 Thank you, Ms. Filo.

1 MS. FILO: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. FILO:

4 Q. Good morning, Ms. Keller.

5 A. Good morning.

6 Q. We're here on the case of the People v. Craig Chandler.
7 I understand that you used to be an elementary school teacher
8 at O.B. Whaley School in the Evergreen School District; is
9 that accurate?

10 A. Yes.

11 Q. From years -- during what time period did you work at
12 O.B. Whaley?

13 A. 2000 to 2005 or '6, I believe.

14 Q. Okay. Are you still an elementary school teacher?

15 A. Yes.

16 Q. You still work for Evergreen School District?

17 A. Yes.

18 Q. Could you tell me why you left O.B. Whaley School?

19 A. Partly for my daughter and partly for Craig Chandler.

20 Q. Okay. So you said that you left the school -- part of
21 the reason that you left the school was because of Mr.
22 Chandler?

23 A. Yes.

24 Q. What did you mean by that?

25 A. Um, he made me feel uncomfortable.

26 Q. In what way?

27 A. Um, in a way that is inappropriate. I just didn't like
28 to be around him or, um, see him.

1 Q. When you say that he was inappropriate, could you
2 describe for me what that meant to you or what it means to
3 you?

4 A. Um, inappropriate in a way of how co-workers should
5 behave themselves at work, and he seemed to cross those
6 boundaries.

7 Q. Okay. There is lots of ways people could cross
8 boundaries. They could be violent, they could be -- there is
9 a myriad of ways that someone could be inappropriate. What
10 are you talking about with respect to Mr. Chandler?

11 A. Um, I would say more of, um, inappropriate in a -- where
12 I had to file a sexual harassment complaint.

13 Q. Okay. So when you say he crossed boundaries, he crossed
14 boundaries in the arena of approaching you in a sexual way?

15 A. Yes.

16 Q. The way you perceived it was with sexual intent?

17 A. Yes.

18 Q. Okay. Could you give me some examples of what you mean
19 when you say that he would interact with you in a way that
20 had sexual intent?

21 A. Um, he would put his hands on my hips, he would talk to
22 me about his marriage, and he would come into my classroom
23 and make comments about my physical anatomy, so --

24 Q. Okay. You said that you were at the school from about
25 2000 to 2005?

26 A. Um-hum.

27 Q. Was Mr. Chandler there the entire time you were there?

28 A. No.

1 Q. Do you know when Mr. Chandler came to the school?

2 A. I believe a year after.

3 Q. Okay. So maybe 2001 or so?

4 A. Yes.

5 Q. When Mr. Chandler came to O.B. Whaley school as a
6 teacher, where was your classroom located?

7 A. My classroom was located in -- right near the office in
8 a courtyard that is adjacent to the library and also across
9 from the office.

10 Q. Where was Mr. Chandler's classroom during that time
11 period? So from -- if it was the same, and if it's not,
12 please let me know. But where was Mr. Chandler's classroom
13 in relationship to your classroom between the years 2001 and
14 2005?

15 A. In a portable behind or aside my building.

16 Q. Okay. So distance-wise, could you give me an estimate
17 how far away that was?

18 A. It was close.

19 Q. Okay. So in the context of a normal elementary school,
20 he had a close classroom to yours as opposed to one that was
21 all the way on the other side of the school?

22 A. Yes.

23 Q. Okay. So you said that he would come into your
24 classroom, he would put his hands on your hips, you mentioned
25 a number of things. But towards the end of your time at O.B.
26 Whaley, how often were these incidents occurring, where you
27 came home that day and said, I don't like this. This isn't
28 right?

1 A. Um, they were sporadic.

2 Q. Okay. Once a day? Once a week? Once a month?

3 A. No.

4 Q. How often?

5 A. I could only remember about about five incidents.

6 Q. Total?

7 A. Total.

8 Q. Was there any one incident that stands out in your mind
9 as being particularly inappropriate or particularly
10 offensive?

11 A. Yes, the last incident.

12 Q. Okay. Could you tell me about that incident?

13 A. Um, I was -- it was recess, we were all excused. We
14 were going to -- I went to the women's restroom, and our
15 mailboxes are right by the doors of the women's restroom and
16 the men's restroom. He was standing there at the mailboxes
17 and he had called me over and he had asked me if I was going
18 to have a boob job. And I just was surprised of -- What?
19 What are you talking about? And then he said, "Well, I heard
20 that you were going to get a boob job." I'm all, "No," and
21 then he said, "Well, good because they are perfect the way
22 they are," or, "they are right the way they are." He just
23 made a comment about my breasts.

24 Q. Okay. You said that he would comment on your anatomy.
25 That was one incident where he commented on your anatomy.
26 Was there another incident where he made some reference or
27 comment related to any part of your body?

28 A. No.

1 Q. Okay. Did he make a comment to you about your feet?

2 A. He didn't make a comment about my feet. He went into my
3 classroom and want -- he wanted to take pictures of my feet.

4 Q. Okay. When did that happen? Do you remember?

5 A. I can't pinpoint the time, but I do remember the day. I
6 do remember the incident, yes.

7 Q. Okay. So you described this sort of last incident
8 occurred where he talked about your breasts?

9 A. Um-hum.

10 Q. Was this episode, where he came into your classroom and
11 the issue of feet was discussed, was that closer in time to
12 the end of your tenure at O.B. Whaley or the beginning? Do
13 you remember?

14 A. It was the beginning, because it was in the classroom
15 that is closest to the office where that incident happened.

16 Q. Do you move classrooms at some point?

17 A. I did, yes.

18 Q. So you remember that incident being --

19 A. In that classroom.

20 Q. In the classroom by the office?

21 A. Yes.

22 Q. Tell me about that incident, everything you could
23 remember about that incident in the classroom?

24 A. Well, I usually keep my door open, and that day he came
25 into the classroom and closed the door behind him. I was at
26 my desk, and it's further back by the white boards and the
27 door's, like, as if we're standing from that door to this
28 desk. He closed it behind him and he just stood there.

1 He didn't say anything, and so I was kind of like:
2 Okay. What are you doing here? And in my mind, I was like:
3 Okay. Hi. He's all, "Oh, hey." And he started making his
4 way over to the desk and he started talking about how he's
5 taking a class, a massage therapy or development class or --
6 I don't know what kind of class, but it had to do with feet,
7 and that he needed to get some massage hours in, like feet
8 massage hours in. And when he had asked me, he's all, "I'm
9 taking this class, you know, could I take pictures of your
10 feet? And I also need hours, so I was wondering if I could
11 give you a foot massage." I said, "No." And then I just got
12 a little kind of -- felt kind of weird and uncomfortable, and
13 so I just stood up and started walking towards the door and I
14 was telling him, "Well, I'm wearing boots, you know." So as
15 I was walking towards the door, okay, and then he walked out.
16 Q. Okay.
17 A. So --
18 Q. You said that that made you feel weird? It made you
19 feel uncomfortable?
20 A. Um-hum.
21 Q. Why? What about that interaction and that discussion
22 about taking pictures of your feet or massaging your feet,
23 what was it about that that made you feel uncomfortable?
24 A. I don't know him. He was not -- he's a co-worker of
25 mine. Nobody that I had a friendship with or relationship
26 with. And it was after, like, the hips, you know, him
27 putting his hands on my hips and him closing the door, him
28 stumbling, like, his words, his mannerisms made me very

1 uncomfortable, so I tried to make light of it and just say,
2 "Oh, no. I'm wearing boots," you know, and that's how I
3 remember that, because it just made me -- it just made me
4 remember how uncomfortable I felt at that point in time.

5 Q. Okay. Did you perceive those comments -- I would like
6 to touch your feet, I would like to take pictures of your
7 feet, did you perceive that this had a sexual motivation?

8 A. Yes and no.

9 Q. Okay.

10 A. Yes, because of the prior interactions that I've had
11 with him. And then, no, because I thought maybe he is taking
12 a class. Maybe I'm taking it to that next level where I'm
13 feeling uncomfortable or trying to protect myself.

14 Q. Okay. It was because of the context of the way he had
15 treated you in general that you believed it was sexually
16 motivated?

17 A. Yes.

18 Q. And your only thought that it wasn't sexually motivated
19 is maybe there was some -- maybe he was telling you the
20 truth?

21 A. Yes.

22 Q. Okay.

23 MS. FILO: Thank you, Your Honor. That's all I
24 have.

25 THE COURT: Thank you, Ms. Filo.

26 Ms. Keller, I'm going to ask you to step outside
27 the courtroom for a moment. I want to hear comments from
28 counsel before I give you an opportunity to cross in the

1 event that we're going to do that.

2 THE WITNESS: Okay. Thank you.

3 THE COURT: The witness has stepped outside the
4 courtroom with a gentleman that was here with her. They both
5 stepped outside. And based on what we've heard at this
6 point, I was going to invite comments from counsel. I am
7 also prepared to express some of my own thoughts. If you
8 want to hear what I'm thinking at this point, I will be happy
9 to share with you. If counsel wishes to make comments, I
10 will hear any comments at this point.

11 MR. MADDEN: Your Honor, I'm interested in making
12 comments, but I would rather clarify a couple of things on
13 cross-examination before I do that.

14 THE COURT: Okay. Then --

15 MR. MADDEN: I want to have a clear factual basis
16 in my mind for my comments.

17 THE COURT: That's fine. I wanted to just have her
18 step out first in the event counsel wishes to make any
19 comments at this point. But we'll bring her back in. I will
20 allow you to ask her some questions on cross then.

21 MR. MADDEN: Great.

22 THE COURT: Ms. Filo, would you mind asking her to
23 come back in?

24 MS. FILO: No.

25 THE COURT: Thank you.

26 Thank you, Ms. Filo.

27 Ms. Keller is back on the witness stand. Mr.
28 Madden, you wish to cross-examine?

1 MR. MADDEN: Yes. Thank you.

2 CROSS-EXAMINATION

3 BY MR. MADDEN:

4 Q. Ms. Keller, my name is Brian Madden. I'm Craig's
5 attorney. I don't have a lot of questions for you, but the
6 first thing I want to ask you about is the matter that I'm a
7 little bit confused about. I don't think because of your
8 testimony, but because of a portion of the police report.

9 A. Yes.

10 Q. Have you had an opportunity to review the police report
11 in this case?

12 A. Yes.

13 Q. Okay. And do you have that near you?

14 A. No.

15 MR. MADDEN: I'm going to approach, if that's all
16 right, Your Honor? This is from pages 406 to 407 of my
17 discovery package.

18 THE COURT: Okay. I don't have a problem with
19 that, but what was the reason that you wanted to approach?

20 MR. MADDEN: I wanted to have her just look at the
21 paragraph that I'm referring to, even though she's read it.

22 THE COURT: Oh.

23 MR. MADDEN: Just to confirm that's what I'm
24 talking about.

25 MS. FILO: Your Honor, maybe I could avoid all of
26 this. It's my mistake. Ms. Keller did indicate to me that
27 the last sentence in the second paragraph, which she stated:
28 He again walked up behind her and put his hands on her hips.

1 Yesterday, when I spoke with the attorney that is
2 coordinating all of the school district people, I was
3 informed that last sentence in the police report is not
4 accurate. She did not intend or believe that she ever said
5 that. So if there is an error, it's Det. Pierce's error.
6 She wanted to be clear that that was not part of the incident
7 that involved this discussion about her feet.

8 THE COURT: Okay.

9 Mr. Madden, was that the area you were wanting to
10 address?

11 MR. MADDEN: Indeed it was. I want to pursue it a
12 little bit.

13 THE COURT: Sure. Go ahead.

14 MR. MADDEN: That's where I want to be.

15 BY MR. MADDEN:

16 Q. Ms. Keller, as Ms. Filo was speaking, you were shaking
17 your head vertically. I assume you agree with what Ms. Filo
18 said; is that correct?

19 A. Correct.

20 Q. I'm not trying to be hopefully too tough on you or
21 fussy, but if I ask -- if you are shaking your head either
22 yes vertically or horizontally, and if I ask, "Does that mean
23 yes or no," I'm not trying to be mean. We need to have a
24 record. Madam court reporter could only get down words.
25 Okay?

26 A. Yes.

27 Q. There is no reason why you would know about this. If
28 you slip, we'll correct you. It's nothing to worry about.

1 A. Okay.

2 Q. All right.

3 Just so that I'm crystal clear, the incident
4 involving your classroom, when we say the "classroom
5 incident," we're talking about an incident in your classroom;
6 correct?

7 A. Correct.

8 Q. And there is only one of those?

9 A. Yes.

10 Q. Okay. And that the police report is correct insofar as
11 it states that on that occasion, Mr. Chandler touched your
12 hips or any other part of your body?

13 A. No, he did not.

14 Q. Okay. So that incident was nothing more than a
15 conversation that made you feel uncomfortable?

16 A. Yes.

17 Q. And I'm assuming that that conversation was relatively
18 brief? Like a couple of minutes, I'm guessing?

19 A. Yes.

20 Q. All right. Okay.

21 Now, the -- just so I understand, you testified
22 that there was an incident of him touching your hips. That
23 was on one occasion?

24 A. On two occasions.

25 Q. Okay. And the hip incidents occurred where and when?

26 A. Um, one was during a Friday lunch. A lot of us teachers
27 have, like, food. We bring food on Fridays, and during that
28 recess break, people would go and get some food. And so

1 we're all in the line doing whatever it is: eating or
2 getting food. He came behind me, put his hands on both of
3 my -- put his hands on my hips and moved accordingly, like
4 move to the side.

5 Q. He moved to the side or you moved to the side?

6 A. No. He moved to the side.

7 Q. He was behind you, you feel his hands on his hips, and
8 then he put his hands on the hip, move to the side like
9 towards the side or something?

10 A. No, just moved. He didn't move next to me. He just
11 moved.

12 Q. Hands were --

13 A. Hands on my hips.

14 Q. Very briefly on your hips?

15 A. He had his hands on my hips.

16 Q. I'm interested in the period of time you remember them
17 being there?

18 A. They were there.

19 Q. I don't mean they weren't there. I mean, were they
20 there for just a second or two?

21 A. Yes.

22 Q. This was a momentary kind of thing?

23 A. Um-hum.

24 Q. All right. Do you remember what -- so you were in at
25 least a couple of different classrooms when you were O.B.
26 Whaley?

27 A. Two.

28 Q. Do you remember the classroom numbers?

1 A. No. Unfortunately, I don't.

2 Q. Okay. The classroom that you were describing where this
3 incident occurred in your classroom, that was the first or
4 the second classroom that you were assigned to?

5 A. That's the first.

6 Q. That would be -- do you remember approximately during
7 the tenure when you switched to the other class? Does that
8 question make sense?

9 A. Yes. I'm trying to think whether I was in that
10 classroom for two years or just one year.

11 Q. But that was the first class you remember being assigned
12 to?

13 A. Yes.

14 Q. Okay.

15 A. Well, let me -- I was a kindergarten teacher first.

16 Q. At O.B. Whaley?

17 A. At O.B. Whaley. That was before Chandler was at O.B.
18 Whaley, then I moved into that classroom, the first grade
19 classroom.

20 Q. The kindergarten -- there is sort of a kindergarten wing
21 at O.B. Whaley?

22 A. Yes.

23 Q. That is separate from the other part of the school?

24 A. Yes.

25 Q. Actually has its own little playground?

26 A. Yes.

27 Q. You were over there teaching kindergarten, and you
28 started in approximately 2000?

1 A. So about 2003 I want to say, because I was -- I started
2 2000, I was kinder for two years, then I looped up with my
3 first-graders to that classroom.

4 Q. The classroom that we have been talking about?

5 A. Yes.

6 Q. Earlier?

7 A. Yes.

8 Q. Okay. So at that point you're a first grade teacher?

9 A. Yes.

10 Q. Okay. So if your tenure was on or about and between
11 2000 and 2005 or 2006, that would suggest to me that must
12 have been around 2002 or 2003? I won't hold you to it.

13 We're just estimating.

14 A. Yeah, I believe so.

15 Q. Okay. This incident involving the massage, it was -- so
16 I'm clear, it was -- was that ever repeated ever again while
17 you were at O.B. Whaley?

18 A. No.

19 Q. Okay. And would it be a fair statement with respect to
20 Mr. Chandler's actions, verbal actions to you on that date
21 that we talked about in your classroom, you certainly felt
22 uncomfortable, but in your own mind you were not certain that
23 what he was doing was sexual in nature, but you thought it
24 could have been?

25 A. That's why I said yes and no.

26 Q. Okay. All right.

27 So turning again to the incident itself in your
28 classroom. Other than wanting to photograph your feet and

1 other than offering to give you a massage -- was that a foot
2 massage?

3 A. Yes.

4 Q. Okay. There was no other conversation or no other
5 comment made by Mr. Chandler about your feet?

6 A. No.

7 Q. Nothing that was overtly sexual?

8 A. In what regards?

9 Q. Well, you said you had mixed feelings. What I'm saying,
10 those were -- his only comments, the ones that you talked
11 about, there weren't any other comments?

12 A. About feet; right?

13 Q. Yes.

14 A. No, that was it.

15 Q. Okay. So he asked you essentially two questions: One
16 connected with taking photographs of your feet, and one
17 connected with giving you a foot massage?

18 A. Those were the questions, but there was a conversation.
19 There was more, you know, yes.

20 Q. All right. So you then said no and start to walk out?

21 A. Yes.

22 Q. He walked out, I assume, in front of you?

23 A. He walked -- no. I started walking in front of him,
24 like leading him out.

25 Q. Okay. Then he followed you?

26 A. Yes.

27 Q. Okay. Then did you -- he left the class and did he walk
28 away and you watch him, or did you both walk away together?

1 A. Yes.

2 Q. If you remember?

3 A. I don't remember. I just -- he just left after that.

4 Q. Okay. So was the incident in the -- I don't think it's
5 a teacher's lounge. What is that room called? Or is it a
6 teacher's lounge?

7 A. That's what we call it, the teacher's lounge.

8 Q. Okay. That incident involved touching from behind,
9 putting his hands on your hips briefly, are you comfortable
10 with the word "briefly"?

11 A. A little more than briefly. It lingered uncomfortably,
12 that's how it was for me.

13 Q. Maybe I'm -- given how long ago this occurred, I
14 appreciate that you may not have total clarity on this.
15 Could you give me an estimate of the length of time his hands
16 were on your hip in terms of seconds?

17 A. No, I can't give you. All I know it was enough for me
18 to be aware and be, like, what? And him walk away.

19 Q. Did you -- I'm sorry.

20 Did I cut you off? Go ahead.

21 A. It just made me alert, like, that's how the reason why I
22 remember. When someone touches you briefly, like, on your
23 shoulders and stuff, you don't really remember those
24 incidents. But when someone that you don't know or don't
25 even expect for that to happen put their hands on your hips,
26 you know, that just alerted me. So I know it wasn't like
27 a -- just a second touch; it was like a one, two, three,
28 four, five, you know, and then he lingered off. So --

- 1 Q. When you said he lingered off, you mean he walked off?
- 2 A. He walked off.
- 3 Q. Do you remember where he went?
- 4 A. No.
- 5 Q. Okay. But it's your recollection that at or about the
- 6 time that that happened, there were other people around other
- 7 than you and Mr. Chandler?
- 8 A. Yes.
- 9 Q. Other teachers?
- 10 A. Yes. It was in public, yeah.
- 11 Q. Public place?
- 12 A. Public place.
- 13 Q. And basically there was, I assume, what amounts to sort
- 14 of a buffet table, where people sort of potluck, bring snacks
- 15 and goodies on Friday? That's traditional; right?
- 16 A. Yes.
- 17 Q. Okay. Thank you.
- 18 MR. MADDEN: I have no further questions.
- 19 THE COURT: Redirect?
- 20 MS. FILO: I could be very brief, Your Honor. I
- 21 will try.
- 22 THE COURT: Sure.
- 23 REDIRECT EXAMINATION
- 24 BY MS. FILO:
- 25 Q. Ms. Keller, you mentioned this incident in the lunch
- 26 room?
- 27 A. Yes.
- 28 Q. This incident with the feet?

1 A. Yes.

2 Q. And this last incident where he rubbed against your
3 breasts?

4 A. Yes.

5 Q. You said there were five incidents total?

6 A. Yes.

7 Q. What were the other incidents?

8 A. The other incident where he put his hands on the hips,
9 this was also towards the end of the year at the volunteer
10 parent luncheon. Same scenario. We were there with food at
11 the table and we were serving the parents and he came behind
12 me, again, putting his hands on my hips.

13 The other one would be when we had library and I
14 had computer lab at the same time, and he would come talk to
15 me every once in a while. And when he came in to talk to me
16 about his marriage and I felt it was inappropriate.

17 Q. Okay. So can you to the best of your ability describe
18 for me the order in which those things happened? So we know
19 this comment about the breast happened last. Where would --
20 the lunch room, computer lab, feet, and parent luncheon,
21 where would those things fall? Do you remember which
22 incident happened first? Maybe we should start with that.

23 A. Um, the hips.

24 Q. Was that at the Friday lunch or the parent luncheon?

25 A. That was the Friday lunch.

26 Q. Okay.

27 A. Luncheon, yeah.

28 Q. So that happened first, and the reference to the breast

1 happened last, and it's the computer lab, discussion of the
2 feet, and the parent luncheon?

3 A. So I would say the computer lab would be the second one,
4 then the third one will be the feet, and then the last one
5 would be another hands on the hips -- not the last one, but
6 the fourth one would be the hands on the hip, and the last
7 one would be the breast incident.

8 Q. Okay.

9 A. So that's all I know. That's all I remember.

10 Q. Did all of these incidents occur after you moved into
11 the first grade classroom?

12 A. No. The last one was when I was already in the last --
13 the classroom way out in the corner of the first grade. When
14 I moved to the portables.

15 Q. Okay. So did any of these incidents occur while you
16 were teaching kindergarten?

17 A. No.

18 Q. When did you -- you said you looped up from kindergarten
19 to first grade.

20 A. Yes.

21 Q. Do you know when that happened? You thought it was
22 about 2003; is that right?

23 A. 2003, yes.

24 Q. You believed you left the school in 2005?

25 A. I don't remember what year, to be honest.

26 Q. Okay.

27 A. 2005, 2006.

28 Q. So, I guess what I'm trying to figure out is these

1 incidents were somewhat condensed towards the last two to
2 three years at your time at O.B. Whaley?

3 A. Yes.

4 Q. I want to be -- ask you one last question.

5 A. Yes.

6 Q. If Mr. Chandler were not in fact taking a massage class,
7 would that take away any reservations you have about that
8 conversation being sexually motivated?

9 A. Yes. If he did not have a massage class, then I would
10 think, yeah, what's going on?

11 Q. There would be no other explanation in your mind --

12 A. No.

13 Q. -- for how or why he would make those comments to you?

14 A. Yes.

15 Q. Even if he was taking that massage class, you still have
16 some kind of creepy feelings about him?

17 A. Yes, because of what has happened before.

18 Q. And since?

19 A. And since, yes.

20 Q. Thank you.

21 MS. FILO: Nothing further, Your Honor.

22 THE COURT: Recross, Mr. Madden?

23 MR. MADDEN: No, Your Honor.

24 THE COURT: I have one question. Just wanted to
25 clarify this. When Mr. Chandler asked if he could take
26 photos of your feet when he came into the classroom, did he
27 say "photos of your feet and massage your feet?" Or, "Photos
28 of your toes and massage your feet?" Or, "Photos of your

1 toes and feet?" Do you know specifically what he said?

2 THE WITNESS: I remember feet.

3 THE COURT: Okay. Thank you.

4 Based on my last question, any comments by counsel?

5 MR. MADDEN: No.

6 THE COURT: More questions? Excuse me?

7 MR. MADDEN: No.

8 THE COURT: All right.

9 Ma'am, you could step down. Thank you very much.

10 And once again, I will ask you to step outside the courtroom
11 and wait.

12 THE WITNESS: Okay.

13 MR. MADDEN: Your Honor, I have no objection to the
14 witness being excused. We didn't excuse her; right?

15 THE COURT: No. I wanted her to stick around.

16 Just so both counsel understands, the reason I asked about
17 the toes because in your motion it says, "Could I take
18 pictures of your toes and massage your feet?" I was pretty
19 confident her testimony was "take pictures of your feet and
20 massage the feet." I wanted to make sure it was clear based
21 on her recollection.

22 The witness has stepped outside the courtroom at
23 this time. I will hear any comments from counsel. Mr.
24 Madden?

25 MR. MADDEN: Yes, Your Honor. You don't have an
26 objection, I will go to the podium so I could have --

27 THE COURT: Sure.

28 MR. MADDEN: So I'm not altogether clear about

1 where we are from an evidentiary standpoint. We have had a
2 previous ruling from the Court. My recollection is that you
3 indicated that you were, or that you were inclined to allow
4 at that time -- based on the evidence that you had on the
5 moving papers, that you were inclined to allow Ms. Keller to
6 testify concerning basically the foot incident in her
7 classroom.

8 THE COURT: Correct.

9 MR. MADDEN: The People essentially in their moving
10 papers addressed just that issue. Although in their moving
11 papers they discuss the two other incidents, two other
12 conversations, those were not addressed in their moving
13 papers. So I feel like I'm kind of shooting a moving target
14 here.

15 THE COURT: Let me interrupt you, and maybe it
16 might be more efficient if I heard from Ms. Filo about what
17 you're asking to be allowed to be presented to the jury. And
18 then that would eliminate Mr. Madden talking about everything
19 that he could focus on if necessary.

20 MS. FILO: Sure.

21 THE COURT: Thank you, Ms. Filo.

22 MS. FILO: Your Honor, I think our reasoning
23 remains the same, and that is that there is conduct that
24 seems to be and comments that seemed to be directed at Ms.
25 Keller's feet, and that that in Ms. Keller's mind was
26 perceived to be a sexual overture. And she's testified, and
27 I think it's clear, that that was part of a context. I mean,
28 it has to be put in some context. Ms. Keller clearly

1 believed that Mr. Chandler was approaching her and talking to
2 her and touching her or proposing to touch her in a manner
3 that was sexually motivated that she felt was inappropriate
4 and uncomfortable.

5 She's a grown woman who certainly appears to be
6 with all capacity and ability, and there is no reason to
7 believe that her perception is inaccurate. So, yes, I think
8 that the People are entitled, not only to get in this comment
9 about the feet, but at least the fact that there was part of
10 a broader relationship and part of a bigger picture that
11 should be presented to the jury in order to explain why she
12 felt the way that she did.

13 So we're talking about five incidents. Those are
14 the incidents that Ms. Keller's described. They are
15 relatively brief and limited. She's just done a 402 hearing
16 in half an hour. So from the purposes of -- or from the
17 perspective of 352, this is limited testimony that involves
18 five incidents that created an overall impression in her mind
19 of sexually motivated comments and behavior by Mr. Chandler
20 towards her. That would explain why this particular interest
21 in her feet is relevant for purposes of our trial in this
22 case.

23 THE COURT: Okay. Thank you.

24 Mr. Madden.

25 MR. MADDEN: Your Honor, let me start with the fact
26 that on this record, what we have is a question, one
27 question: Could I -- if we're reducing it to a simplest
28 form, Could I photograph your feet? Could I massage your

1 feet? Two questions. I don't believe on this record that
2 the Court can possibly conclude with confidence that he has
3 a, quote, foot fetish, because, really, that's what the
4 purpose of all of this is, and then to try to tie it into an
5 interest in children.

6 It's two questions. He didn't ask to lick her
7 feet: Oh, your feet are beautiful. Could I touch your feet?
8 I really like feet. I'm really into feet. I'm really into
9 your feet. Nothing.

10 I might point out, I think the obvious, the State
11 of California licenses massage therapists. My guess is that
12 almost everyone in this courtroom -- not everyone -- has had
13 a massage at some point, including a massage of their feet.
14 An interest in massaging feet is not something that is per se
15 a fetish.

16 We have in my moving papers a declaration by our
17 expert, Dr. O'Donohue, indicating what one would have to show
18 to show a fetish, and it is a far cry from the record in this
19 case at this time. I think that's very important.

20 I think it's also important in light of the fact
21 that what was initially in the police report, that is, that
22 this classroom also included him approaching her and putting
23 his hands on her hips, she needed to clarify that that is
24 incorrect. And I think that minus that allegation that's in
25 the police report, it makes it even -- well, that would have
26 made it much more easy to connect the two, but without it,
27 the connection is much more tentative and speculative.

28 Most importantly here, and I said it repeatedly in

1 argument and in my moving papers, this conduct, and even as
2 acknowledged by Ms. Keller, is in her own mind she's not
3 certain. Maybe it is, maybe it isn't. But the key thing we
4 have to remember is Ms. Keller is an adult woman, and Mr.
5 Chandler's unwanted advances, unwanted comments, comments
6 that crossed over the line in terms of a co-worker, that
7 really be best described in the general category of sexual
8 harassment, may be sexual harassment. It is not a crime
9 within anything, within the definition of any crime in the
10 Penal Code. Is it inappropriate? Of course. It's not a
11 crime.

12 It is essentially at worse repeated efforts of
13 seeking, inviting, encouraging, hoping for a consensual
14 liaison with the adult woman. There is no connection to
15 sexual interest in children or children's feet for the
16 reasons Dr. O'Donohue addressed and the reasons that we
17 stated in our moving papers.

18 The problem is this has to come in under 1101(b).
19 All of this stuff is 1108 stuff, which it doesn't come in
20 then because it's not a crime. It's not 1101(b) stuff, it's
21 not admissible under 1101(b) because of the connection, and
22 the connection also has to be looked at in terms of probative
23 value. Its relevance, its materiality has to be looked into
24 probative value. The interest -- as I said before, an
25 interest in the part -- any body part of an adult woman does
26 not translate into the same interest and the same body part
27 of a child. Otherwise, it would necessarily follow that
28 every man who has an interest in any part of a woman's body

1 necessarily has the same sexual interest in a child's body
2 for those parts, and that is simply not correct and that's
3 the danger of admitting this evidence in this case.

4 The probative value of it is minuscule. In fact, I
5 submit to the Court, as I said in my moving papers, it has no
6 probative value. They are not connected. It's apples and
7 oranges to let a jury hear this. Nothing more than to throw
8 mud up on the wall. He's a bad actor in terms of sexually
9 harassing a teacher, therefore, we're not sure what this foot
10 thing is all about. This is one uncomfortable incident.
11 Other things showed it was harassment, therefore, he's kind
12 of a creep and he must have molested these kids.

13 This is a tenuous connection, on tenuous
14 connection, on tenuous connection, incredibly prejudicial,
15 not probative. And I would urge the Court, not only to not
16 allow it, I would urge the Court to reconsider, based on this
17 evidence, of what was not happening at the -- in that
18 classroom, i.e., any touching. And there was no specific
19 thing about toes or anything. It was just a simple request
20 that could very well have been legitimate. But to allow that
21 to come into evidence is speculative and I don't see how the
22 Court could possibly allow that. Thank you.

23 THE COURT: Thank you, Mr. Madden.

24 Any additional comments, Ms. Filo?

25 MS. FILO: I do have a few, Your Honor. Those --
26 these would be those. When counsel says that on this record
27 there is not enough, what I would remind the Court is it's
28 not going to be just this record. We're going to have

1 children who are going to come into court and talk about Mr.
2 Chandler's behavior with their feet. So that is the
3 connection.

4 And what Mr. Madden is saying is that this is
5 ambiguous conduct. I suppose all of the conduct in this case
6 could be arguably ambiguous. That's the defense's entire
7 argument, that this was an educational exercise; this was a
8 Helen Keller moment; that all of this has an innocent
9 explanation, and they are entitled to argue that. And if the
10 jury accepts that, then so be it.

11 But what Ms. Keller has unequivocally said in the
12 context of this relationship, she believed it to be sexually
13 motivated. This is not 1108 evidence. The People aren't
14 suggesting that it's admissible under 1108. We never claimed
15 that it was a crime. And Mr. Madden continues to assert that
16 a sexual interest in an adult foot is not the same sexual
17 interest in a child's foot. I would agree with him. What he
18 said is having intercourse what an adult woman doesn't mean
19 you want to have intercourse with a child.

20 My suggestion would be that if he's having
21 intercourse with both an adult woman and a child, the intent
22 is the same. This is -- it's not the age that connects them,
23 it's the activity, it's the behavior. So, yes, I think that
24 if you are having -- if you are repeating a behavior with an
25 adult and a child, and both of them are sexually motivated,
26 that's the nexus, that's the connection. I'm not suggesting
27 that anyone who touches the feet of an adult wants to touch
28 the feet of a child, but this defendant did. He did touch

1 those feet, so that's the nexus. That is the connection.

2 And I think the evidence is highly probative, and I
3 think it's -- there is no possibility that the jury is going
4 to be confused or misled. This is a clear connection of an
5 interest in a specific body part that is not otherwise
6 defined as sexual.

7 THE COURT: Mr. Madden, any final comments?

8 MR. MADDEN: Yes. I think Ms. Filo was being --
9 just make one comment. Her representation that this witness
10 said it was sexually motivated, it was not her testimony.
11 She said, "Maybe yes, maybe no." That was her testimony in
12 her own words. Ms. Filo is misstating what she said, and I
13 think it's very -- that's very important to the Court's
14 decision in this case. Thank you.

15 THE COURT: Okay. First of all, let me just say
16 that the Court's ruling is not simply based on the 402
17 testimony, but I have taken into consideration everything
18 that's been presented to me in the past, including the moving
19 papers.

20 First of all, I think this is a unique situation,
21 because as Mr. Madden is arguing about body parts, I think
22 the feet are a unique body part, unlike any other part of the
23 body. I disagree with Mr. Madden, that this particular
24 incident is not probative. I think it is probative. I want
25 to make this clear, I will allow Ms. Keller to testify about
26 the incident in the classroom, because it's not only the
27 comments by Mr. Chandler, it is the only incident that I
28 think occurred when he comes into the classroom, closes the

1 door, there is no one in the classroom, and this occurs. So
2 I think that's relevant based on everything I know. So that
3 I will allow.

4 I won't allow any reference to sexual harassment.
5 I will allow her to testify how it made her feel: that it
6 was uncomfortable. What I'm struggling with are the other
7 contacts with her, where those were clearly -- but for the
8 foot incident, those other conducts wouldn't be relevant in
9 this case. So what I'm struggling right now is to allow her
10 to testify that, you know, she had contact with Mr. Chandler
11 and that those contacts factor -- you know, just regular
12 contact with them factoring in her comfort level.

13 My point is, I don't think the other contacts are
14 relevant. I think the fact that based on this one particular
15 incident, it made her feel weird and uncomfortable is
16 relevant. I think, quite frankly, in fairness to the
17 defense, if you ask the question: Is it sexual? She says
18 yes/no, I think that may help both sides because it's
19 unclear. Now, obviously, if she testifies, you get that
20 information out, and Mr. Madden chooses to go in a lot more
21 detail about contacts with Mr. Chandler, then, you know,
22 obviously I wouldn't restrict that.

23 But for the People's, I guess, direct, I am
24 restricting it to that. I will allow some vague reference:
25 Did other context factor into this?

26 MS. FILO: Your Honor, may I, for instance, ask the
27 witness: Based on your entire relationship with Mr.
28 Chandler, do you believe that this contact or these comments

1 were sexually motivated?

2 THE COURT: Well, you are going to ask her: Was
3 this conduct that occurred, did you feel sexually motivated?
4 Yes. And then that question.

5 MS. FILO: Okay.

6 THE COURT: Because I don't want it to be before or
7 afterwards.

8 MS. FILO: Okay. That's fine.

9 MR. MADDEN: Your Honor, I need some clarification.

10 THE COURT: Sure.

11 MR. MADDEN: I need some guidance. So what I'd
12 like to know specifically is what the People will be limited
13 to. The People will be allowed to ask the question: Did you
14 feel this conduct was sexually motivated?

15 THE COURT: Well, I would think based on when she
16 testified --

17 MR. MADDEN: I'm sorry. Or: Does this make you
18 feel uncomfortable?

19 THE COURT: How did it make you feel? It made --
20 her testimony here was weird or -- weird and uncomfortable.
21 Did you believe it was sexually motivated? Then she answers
22 the question.

23 MR. MADDEN: You'll allow that?

24 THE COURT: Yes.

25 MR. MADDEN: Well, she said, "Maybe yes, maybe no."

26 THE COURT: Correct.

27 MR. MADDEN: So did you believe --

28 THE COURT: Right.

1 MR. MADDEN: -- that it was sexually motivated?
2 Her answer, Maybe yes, maybe no.

3 THE COURT: She could explain.

4 MR. MADDEN: Then she could explain that and talk
5 about the other incidents?

6 THE COURT: No. I mean, she just testified why she
7 felt that way because she said she felt it was. And then she
8 said if he had a massage class, maybe not about the other
9 incidents.

10 MR. MADDEN: So in her direct, the People will not
11 be allowed to inquire about any of the other four incidents;
12 correct?

13 THE COURT: Not get the details out of it. But as
14 you put it, Ms. Filo, her other contacts with her playing a
15 part in this generally. I mean, it's not just one isolated
16 incident. She's known him for a few years, and having that
17 past relationship has a factor. I mean, you might have
18 someone who is, for lack of a better word, a jokester, always
19 doing these things. No, it wasn't sexually motivated at all
20 because I know him.

21 MR. MADDEN: So the People can't inquire directly
22 about the other four incidents? This witness will not be
23 allowed to talk about the other four incidents?

24 THE COURT: Not on direct.

25 MR. MADDEN: If I choose to explore them, then --

26 THE COURT: That's your --

27 MR. MADDEN: -- all bets are off.

28 THE COURT: Correct. Then obviously, Ms. Filo, you

1 could go into it.

2 MS. FILO: Okay. Is it --

3 THE COURT: And --

4 MS. FILO: Your Honor, if I might? I think I
5 usually feel like the best way to address this, if the
6 witness is still here, is that to have her come in and
7 explain to her on the record just so there is no confusion
8 about what I am instructing her or what I'm telling her is
9 the limitation of her testimony so that she knows and
10 understand that and that's on the record.

11 MR. MADDEN: I have no objection to that. But just
12 so I am clear, is she going to be able to answer anything
13 after she's asked: Did you believe it was sexually
14 motivated? And she says: Maybe yes, maybe no, that's the
15 end of the inquiry unless I get into it.

16 THE COURT: No. I will allow Ms. Filo to ask:
17 Explain what you mean by that. Because I can't just leave it
18 out like that. I don't think that's fair.

19 MR. MADDEN: What will she be allowed to talk
20 about?

21 THE COURT: What she testified here in court.

22 MR. MADDEN: To all five incidents now?

23 THE COURT: To exactly what she said, which was --

24 MR. MADDEN: I see.

25 THE COURT: Yeah.

26 And, Ms. Filo, as far as you bringing her in and
27 getting this clarified, that's fine with me. I have no
28 problem with that. Because knowing you, I'm confident you

1 are going to explain to her the Court's ruling, and you do it
2 with every single witness, I'm certain. And if she comes in
3 here and the witness says something they are not supposed to
4 do, is that a reflection on you? No. But if you feel more
5 comfortable doing it, I have no problem with that.

6 MS. FILO: I'm concerned, Mr. Madden seems very
7 concerned, about making sure this is, like I say, a closed
8 universe. I want to make sure that he's satisfied that I
9 have made these representations to her.

10 THE COURT: If that's your request, that's fine. I
11 have no problem with that.

12 MS. FILO: Thank you.

13 THE COURT: But I want her in the courtroom. I
14 will not put her on the stand or anything like that.

15 MS. FILO: That's fine, Your Honor. I will just
16 bring her in.

17 THE COURT: Record will reflect that Ms. Keller has
18 entered the courtroom. Ma'am, thank you very much for your
19 patience.

20 Ms. Filo.

21 MS. FILO: Thank you, Your Honor. I wanted to just
22 put on the record, Ms. Keller, the Court's ruling. So I want
23 to make sure that you understand it and that I ask you the
24 appropriate questions at the time that you testify. The
25 Court is going to allow me to ask you about this incident
26 where Mr. Chandler came into the courtroom, he closed the
27 door behind him, asked about massaging your feet and taking
28 pictures of your feet, about how that made you feel,

1 uncomfortable/inappropriate, and that -- and whether or not
2 that was -- you believed that was sexually motivated.

3 And then lastly, whether or not your belief about
4 his motivations is based on your entire relationship and
5 knowledge of Mr. Chandler during the time that you knew him.
6 He's not going to allow us to talk about the other four
7 incidents, so I'm not going to be asking you questions about
8 that, and I'm going to ask you, if possible, not to refer to
9 those in your answers.

10 MS. KELLER: Okay.

11 MS. FILO: If you feel like answering one of my
12 questions would require you to reference one of those
13 incidents, please let me or the Court know and we'll take a
14 break and work it out.

15 MS. KELLER: Thank you.

16 THE COURT: Also, ma'am, there will be no reference
17 to any sexual harassment claim that you may have filed. Ms.
18 Filo will be allowed to ask you all of the general questions
19 like, your classroom, where it was located, when you came,
20 those general types of things. But as she just said, I'm
21 basically restricting the testimony to that classroom
22 incident.

23 MS. KELLER: Okay.

24 THE COURT: So I'm not restricting what you testify
25 about that, but that's the area. Then the defense attorney
26 will cross-examine you, and if he asks you about one of those
27 other incidents, well, that is his choice and you will be
28 allowed to testify to those. Okay?

1 MS. KELLER: So --

2 THE COURT: If you are uncertain about a question
3 that, for example, Mr. Madden asks you: Did he ever put his
4 hands on your hips, for example, you could look at me and
5 say, May I answer that question? And I will say yes.
6 Whenever you have some concerns, just look at me and say, May
7 I answer that question?

8 MS. KELLER: Okay.

9 THE COURT: And if I'm not sure, I will ask the
10 attorneys to approach sidebar. And if necessary, I will ask
11 the jury to step out and we'll clear it up. Okay?

12 MR. MADDEN: Your Honor, may I add a couple of
13 points to make sure we're all on the same page?

14 THE COURT: Sure.

15 MR. MADDEN: Ms. Keller, it's my understanding that
16 pursuant to the Court's ruling, should -- Ms. Filo will be
17 allowed to ask the question, talk about the classroom
18 incident, how you physically describe it, verbally describe
19 it. She'll be allowed to ask the question, "Do you believe
20 it was sexually motivated?" And then I assume your response
21 would be, as it was this morning, "I don't know. Maybe yes,
22 maybe no."

23 MS. FILO: Your Honor, I'm going to object. I
24 don't think it's appropriate at this point for counsel to
25 tell the witness what her answer should be to any of the
26 questions.

27 MR. MADDEN: I'm not telling her. I'm going on the
28 record, making sure I understand this is what she said this

1 morning. That's what I expect the Court's ruling -- concerns
2 what she'll be answering.

3 THE COURT: Well, it is, but she already testified
4 and I don't think we need to go over all of her testimony
5 again.

6 MR. MADDEN: Okay.

7 THE COURT: Obviously, there may be different ways
8 you answer questions, but it's similar. But, you know, the
9 parameters is the point we just wanted to make on the record.

10 MR. MADDEN: All right.

11 THE COURT: Okay. Thank you, Ms. Keller. You are
12 excused and free to leave.

13 MS. KELLER: Thank you.

14 THE COURT: Counsel, I'm going to take a
15 five-minute restroom break.

16 (Whereupon, the Court recessed.)

17 THE COURT: We're back on the record. Both counsel
18 are present, Mr. Chandler is present, and we're continuing
19 with two additional issues. Ms. Filo.

20 MS. FILO: Thank you, Your Honor. People have
21 decided not to attempt to solicit expert testimony from Dr.
22 (Redacted), so we could probably take that off of our list.

23 THE COURT: Okay.

24 MS. FILO: I would say this, if -- obviously, the
25 People reserve the right in rebuttal. If there is some issue
26 raised by the defense in the course of cross-examination, in
27 the course of the examination of their expert that causes us
28 some concern about inconsistencies and statements, obviously

1 the People reserve their right in rebuttal to call an expert
2 that might explain those inconsistencies or give some context
3 to these inconsistencies.

4 THE COURT: Okay. Thank you.

5 MS. FILO: So that will be issue No. One.

6 Issue No. 2 I had raised with the Court the other
7 day, and I don't remember if we put it on the record, I think
8 we did not, so --

9 THE COURT: Right. We did not.

10 MS. FILO: Maybe I should give a statement for the
11 record, and it is this:

12 Lyn Vijayendran was the principal of O.B. Whaley
13 Elementary School in the 2011/2012 school year. In October
14 of 2011, Victim No. 2 -- actually, Victim No. 2's mother came
15 to the principal and told her that Mr. Chandler had been
16 keeping Becky behind and putting things in her mouth and that
17 Becky didn't like it. Ms. Vijayendran then retrieved Becky,
18 had Becky come in and give a statement to her about what had
19 happened. Becky gave a statement to Ms. Vijayendran. That
20 statement is memorialized in three pages of notes that Ms.
21 Vijayendran took.

22 We have already gotten a ruling from the Court that
23 that statement is admissible under 1360. Subsequent to that,
24 Ms. Vijayendran did go and have a conversation of some sort
25 with Craig Chandler. At the end of that conversation, what
26 she told Mr. Chandler was -- I'm sorry. I should say, at
27 some point in that conversation, she told Mr. Chandler that
28 he should not have children in the classroom alone. We know

1 a lot more about these conversations because Ms. Vijayendran
2 is the subject of a prosecution that went to jury trial in
3 November of last year. Ms. Vijayendran herself testified,
4 and she was ultimately convicted of failing to report an
5 incident of suspected child abuse.

6 So what my request was of the Court was for a sort
7 of a pre-ruling, and I just wanted to make sure that in
8 eliciting the statement from Ms. Vijayendran to Mr. Chandler
9 to the effect that he should no longer have or should never
10 have children in the classroom alone, that that would not
11 then open the door to Mr. Chandler, or Mr. Madden on behalf
12 of Mr. Chandler, getting in his entire explanation of the
13 activity or what they are going to allege is the test which
14 caused a child to be in the classroom alone.

15 Is that sufficiently clear for both the Court and
16 the record?

17 THE COURT: Yeah, it is to me. When she made this
18 comment, should not have -- generally, should not have
19 children in the classroom alone, was there any response to
20 that statement?

21 MS. FILO: Not that I know of.

22 THE COURT: Okay.

23 Mr. Madden.

24 MS. FILO: I guess I should say not that I know of,
25 or not that I would be intending to solicit. I mean, I'm not
26 attempting in any way to get in some statement that he
27 promised he never would or that he would never do it again.
28 I'm not -- I'm not aware that that was his response. In

1 fact, I don't think it was. And if it were, I would not be
2 attempting to elicit it.

3 THE COURT: The response as, Okay. Won't happen
4 again, that type of thing.

5 MS. FILO: Right.

6 THE COURT: Well, I'm a little confused now,
7 because you're saying that to your knowledge there was no
8 response to that statement --

9 MS. FILO: Correct.

10 THE COURT: -- specifically? Okay. All right.
11 Mr. Madden.

12 MR. MADDEN: First of all, counsel is incorrect on
13 that last point. There was a give and take in a discussion
14 about that. I'm not quoting with precision, but I'm
15 paraphrasing on just that subject alone, Mr. Chandler
16 indicated that wasn't fair. All the teachers do that. I
17 mean, there was a response and there was a discussion about
18 it. And when I am making that representation, I have a
19 transcript. I'm not going to pull out a page and line. I'm
20 not that quick at this point. However, there is a record and
21 I was present during Ms. Vijayendran's testimony.

22 Here's my fundamental problem with the People's
23 position. You can't introduce part of a statement and then
24 argue that everything that -- the defense can't go into it
25 because it goes beyond the scope. This flies in the face of
26 Evidence Code 356. It flies in the face of it.

27 I will give the Court some perspective here. On
28 the day that the complaining witness in Count 2, who is

1 referred to as Becky, she came to school with her mother and
2 there were a number of conversations that morning. Those
3 conversations included conversations with initially Becky's
4 mother, then Becky, then Becky and her mother, and then I
5 think Becky again, interspersed with calls to Carole Schmitt,
6 the head of Human Resources for the Evergreen School
7 District, directing Ms. Vijayendran how she should proceed.

8 Ultimately was asked to: All right. You need to
9 talk to the child. You need to find out more specifics. She
10 did make some handwritten notes. There are other notes that
11 she created at a later time. There also was a directive from
12 her superior, Carole Schmitt, to talk to Mr. Chandler, to
13 interview him, find out what he has to say about that. And
14 there were -- that was a relatively lengthy conversation in
15 Ms. Vijayendran's office.

16 At the end of that conversation -- and there was
17 give and take in that conversation. Mr. Chandler openly
18 discussing exactly what he did on the incident involving
19 Becky, why he did it, what the purpose was. And it was at
20 the end of that conversation, Ms. Vijayendran did not -- I'm
21 just representing what her testimony was, not her state of
22 mind. Her testimony was that she did not feel that what Mr.
23 Chandler did was inappropriate in the sense of being sexual.
24 She did not see any sexual connection whatsoever. She put
25 that it was inappropriate in the sense of putting something
26 in a child's mouth while blindfolded alone, and she thought
27 that that was inappropriate, but she didn't see that as
28 sexual.

1 Part of what she said, she did make some reference
2 to what -- how he should go into the future. There was a
3 give and take between them about -- because Mr. Chandler
4 clearly told her he had not completed this lesson, that he
5 wanted to continue with it. That he had been doing it, in
6 effect, since he had been at O.B. Whaley. It's a really good
7 lesson plan; that it teaches empathy for disabled children,
8 which was essentially the history why he began doing this,
9 and that it was a good lesson. And there was actual
10 discussion between them, and I'm not going to say it was
11 argument, but Mr. Chandler did not agree with Ms. Vijayendran
12 and all of the advice that she was giving him.

13 In addition to that, he told Ms. Vijayendran that
14 he was going to be giving a lesson plan in the next day or
15 so, and she gave him some guidance. And Mr. Chandler left
16 that with the understanding of what he was to do, how he was
17 to modify it, and he was going to show that to her a day or
18 two later. All right.

19 So what I'm saying is, I'm trying to put in context
20 of this a simple statement -- this is what I would refer to
21 cherry-picking of the highest order. You want to pick at the
22 statement "never be alone with the kid again," and not allow
23 Chandler to talk about the sum and substance of the
24 conversation connected with that give and take flies in the
25 face of Evidence 356. I should be able to inquire about the
26 entire conversation.

27 THE COURT: Well, what I see as the relevant point
28 here is you have a principal telling the teacher, "Do not be

1 alone in the classroom with a student," and the relevance is
2 that this statement was made to the teacher. And there is
3 evidence that he -- at least according to this witness that
4 said the statement, that appeared to me he heard it, he
5 understood it, or at least heard it. So everything else I
6 don't think is admissible as to -- pursuant to 356, because
7 having him explain everything doesn't leave the jury with a
8 misleading perception of what occurred. All it is a comment
9 from the principal saying, "Don't be alone with the
10 students." We can't look at this in a vacuum because there
11 is going to be a lot of other information presented.

12 When I asked Ms. Filo was there a response, I
13 thought it would be fair to say yes/no. Just some
14 acknowledgement of the statement to give some meaning. Since
15 there is no statement specifically to that comment, then
16 there has to be some way, without getting into what
17 specifically was said, that there was at least some
18 acknowledgment that he heard it. Whether he understands it
19 or agreed with it or was fair or unfair, at least with this
20 witness making that statement, I don't think -- for lack of a
21 better word, I really don't like the term, but opens the door
22 pursuant to 356. Over Mr. Madden's objection --

23 Yes, go ahead.

24 MR. MADDEN: I apologize. Before I get a ruling,
25 Your Honor, I would like to be clear about my position.

26 THE COURT: Sure.

27 MR. MADDEN: 356 of the Evidence Code states:

28 Where a part of an act, declaration, conversations,

1 or writing is given in evidence by one party, the whole on
2 the same subject may be inquired into by the adverse party.

3 When a letter is read, the answer may be given.
4 When a detached act, declaration, conversation, or writing is
5 given in evidence, any other act, declaration, conversations,
6 or writing which is necessary to make it understood may be
7 given in evidence.

8 So when part of a declaration, which is what she's
9 offering, very small part of this conversation comes in on
10 the same subject -- excuse me. When part of a declaration --
11 so when a part of a declaration comes in, the whole on the
12 same subject could come in. All right.

13 I want to cite a case, but I want to make sure I
14 have the right site first, Your Honor.

15 THE COURT: What's the name?

16 MR. MADDEN: *People v. Arias*, A-r-i-a-s, is a 1996
17 case, at 13 Cal.4th, page 92. And this case goes on to state
18 clearly that -- the fact that any of these statements may be
19 self-serving doesn't matter.

20 THE COURT: I agree.

21 MR. MADDEN: It's okay under *Arias*. We're trying
22 to prevent -- *Arias* says:

23 We're trying to prevent the use of *Arias* -- not
24 saying that:

25 We're trying to prevent the use of selected,
26 arguably, and from -- the use of selected, arguably, and
27 inculpatory aspects of the conversation from creating the
28 misleading impression that the only relevant thing Mr.

1 Chandler said was inculpatory.

2 It's -- I believe Arias supports our position, and
3 I would -- I just think that any ruling that precludes us
4 from asking Ms. Vijayendran about her conversation with Mr.
5 Chandler flies in the face of 356 and in the face of Arias
6 and in light of the People's offer of proof.

7 THE COURT: I will simply note that, as you said,
8 356 allows further inquiry:

9 One, when it relates to same subject, which is the
10 case here;

11 and two, it is necessary to make the already
12 introduced conversations or statements understood.

13 The purpose -- and I'm citing *People v. Riccardi*,
14 R-i-c-c-a-r-d-i, 54 Cal.4th 758:

15 The purpose of Section 356, rule of completeness is
16 to avoid creating a misleading impression.

17 And for the reasons I stated earlier, the statement
18 is from a principal to a teacher going forward, Do not have
19 student -- or shouldn't have a student in your classroom
20 alone. And having him explain everything, I don't think
21 leads a misleading impression because the relevance of that
22 statement is just acknowledgement that it was said by the
23 principal.

24 And I appreciate, Mr. Madden, you disagree with the
25 Court's ruling, but, you know, that is the ruling. And if
26 you ask: What did Mr. Chandler say in response? Objection.
27 Hearsay. I will sustain it. Obviously, you don't have to
28 make the objection in front of the jury. This is a

1 continuous objection on your part.

2 MR. MADDEN: If I understand the Court's ruling, I
3 will not be allowed to even ask her about Mr. Chandler's
4 response to that directive, that alleged directive?

5 THE COURT: Well, as I understand it, there wasn't
6 a response --

7 MR. MADDEN: I disagree.

8 THE COURT: -- acknowledging it. I mean, what his
9 response was is basically giving a detailed explanation:
10 This is not fair. Other students do it.

11 MR. MADDEN: No. Prior to that, he gave a complete
12 statement on his activities.

13 THE COURT: Okay.

14 MR. MADDEN: I believe that this statement by Ms.
15 Vijayendran was at the end of their conversation.

16 THE COURT: Correct.

17 MR. MADDEN: In response to that particular
18 directive, there was a disagreement, an expressed
19 disagreement by Mr. Chandler to Ms. Vijayendran on that
20 directive itself. How could we not be allowed to go into the
21 disagreement itself?

22 THE COURT: Because the only relevance I see to the
23 statement is that he heard it and he acknowledged it. This
24 is the principal telling him, "Don't be alone in the
25 classroom with a student going forward."

26 MR. MADDEN: That isn't what she said.

27 THE COURT: Well, I thought the statement was --

28 MR. MADDEN: It's more.

1 THE COURT: -- you should not have children in the
2 classroom alone.

3 MR. MADDEN: Blindfolded, putting things in their
4 mouth with the door closed.

5 THE COURT: Is that the full statement, Ms. Filo?

6 MS. FILO: Judge, I don't have the advantage of the
7 transcript. I guess what -- I don't remember that being the
8 statement. What I remember being the statement was, that he
9 should not have children in his classroom alone. That in and
10 of itself was violative of the preferred practices at this
11 school. I think Ms. Vijayendran will testify to that.

12 MR. MADDEN: I don't believe she's going to testify
13 to it because that was not the preferred practice of the
14 school. There was no preferred practice, and it's -- if you
15 limit me that way, the jury is getting this simplistic and
16 erroneous factual portrayal of -- to have -- for this to be
17 fair, Chandler needs to be able to ask her more about this
18 conversation.

19 Minimally, like you are saying -- I have to accept
20 the rule about, okay, let's just say -- I understand the
21 Court's ruling. You can't ask her about the content of the
22 conversation before you get to that subject. But what I'm
23 saying, at a bear minimum I should be allowed to talk about
24 and ask her questions about the conversation directly
25 connected with that being alone and the details of it,
26 because I'm not sure she even knows the details about it, or
27 will have recollection of it.

28 And, for example, what I just told you is that

1 I'm -- this is a pretty tight paraphrase -- that it wasn't
2 simple edict, that you can't be alone with the children.
3 Again, there was a discussion of what circumstances can you,
4 what circumstances can't you. There was a give and take on
5 that subject. Not to allow me to inquire about that is
6 totally unfair and giving part of something without being
7 able to explore the whole of it. I'm not saying that you
8 have to rule -- well, actually I think I disagree with the
9 Court's ruling, but I respectfully disagree.

10 THE COURT: Yes.

11 MR. MADDEN: That boat has sailed so to speak in
12 the ruling standpoint. But I see very much alive the issue
13 of all communication between Ms. Vijayendran and Mr. Chandler
14 on the subject of being alone from that point forward and
15 under what terms and conditions and who said what to whom on
16 that limited subject. That seems, to me, to preclude that is
17 preventing Mr. Chandler from his rights under Evidence Code
18 356. That's clearly relevant.

19 MS. FILO: I guess I don't understand why it's
20 relevant. I mean, if a principal tells a teacher, "Don't be
21 alone in a class, don't blindfold kids, don't have the door
22 closed when you have the kids in the classroom," his
23 statement back to her, "But I should be allowed to do that or
24 other teachers" -- I mean, what's the relevance of that?

25 MR. MADDEN: Because I believe there was a
26 conversation that included further discussion about the terms
27 or conditions in which it would be okay to have children in
28 your class again, including, for example, for tutoring or

1 whatever.

2 MS. FILO: But that's not what's at issue. What's
3 at issue in the case subsequent to that direction and
4 declaration, he had a child in his classroom blindfolded,
5 putting things in her mouth. That's what is relevant.

6 MR. MADDEN: The specific directive -- I submit to
7 the Court, it's the defense's position based on previous
8 evidence that I read, including the police reports, including
9 the transcript of her testimony at the preliminary
10 examination, is that -- including her written notes.

11 MS. FILO: She didn't testify at the prelim. She
12 was --

13 MR. MADDEN: I misspoke. At her own trial. I
14 misspoke. Thank you for the correction.

15 That she specifically advised him that you're not
16 to have children in your classroom with the doors closed,
17 with the door closed with them blindfolded, putting things in
18 their mouth.

19 MS. FILO: Fine. I'm happy to elicit that
20 statement from Ms. Vijayendran: You are not to have children
21 in your classroom alone with the door closed, blindfolded,
22 putting things in their mouth. I'm happy to elicit that.

23 MR. MADDEN: I'm not offering that as her
24 statement. I will have to fish it out from various sources.
25 I'm not saying that should be the Court's ruling right now,
26 but subject to our research on the content of exactly what
27 was said, and either at her trial or at the police, or her
28 statements to the police, then we could work that out.

1 THE COURT: Let me say this. At this point, I feel
2 comfortable ruling that she could say that she told Mr.
3 Chandler he should not have children in the classroom alone.
4 Any response by Mr. Chandler would not be allowed as hearsay.
5 That does not restrict you, Mr. Madden, to ask her, Is this a
6 policy? Talk about all of this, the basis for her
7 statements. I mean, if you want to go into it because you
8 are saying that it's okay to have children in the classroom,
9 it's okay to do this, I mean, that's fine if you want to go
10 into her reasons why she told him or he made that statement.
11 I'm assuming that she's going to testify after we get the
12 1360 statement in and the child testifies.

13 Is that correct as far as the order?

14 MS. FILO: Your Honor, it was my intention to, yes,
15 put in the child's 1360 statement.

16 THE COURT: So at this stage, that's the Court's
17 ruling, unless I get other information that would suggest to
18 the parties that I should modify it in some way. This is
19 over Mr. Madden's objection. It's a continuing objection
20 throughout the trial, and you would not have to object in
21 front of the jury if you choose to.

22 MR. MADDEN: Just so the Court repeat for me what
23 I'm allowed to do.

24 THE COURT: Okay. You can ask any question of her
25 that is relevant, but any question concerning: What did Mr.
26 Chandler say in response to that, I would sustain an
27 objection as hearsay other than maybe he -- you know, he
28 acknowledged your statement. Did it appear that he

1 understood it. But his actual comments at this point I'm
2 going to be excluding.

3 MR. MADDEN: I can't ask that question at all, what
4 his response was?

5 THE COURT: Well, if you ask it, I will sustain the
6 objection, but I'm just giving you a pretrial ruling.

7 MR. MADDEN: Then am I -- you already indicated I'm
8 precluded from asking her any questions about the
9 conversation between Chandler and her.

10 THE COURT: Yes. On this particular question that
11 the People are eliciting, any response to what Mr. Chandler
12 says, I will sustain the objection.

13 MR. MADDEN: My understanding at this time, subject
14 to changing your mind, but at this time this is the only
15 question that the People intend to ask Ms. Vijayendran?

16 MS. FILO: No, Your Honor. We intend to ask Ms.
17 Vijayendran -- I mean --

18 THE COURT: Well, I'm assuming she's going to
19 testify. She was at the principal's office. She talked to
20 some of the students. I'm assuming there is going to be a
21 lot more.

22 MR. MADDEN: Maybe I'm missing something. It's my
23 understanding the People have no intention of asking -- at
24 this time of asking Ms. Vijayendran in this trial anything
25 about Mr. Chandler's statement to her concerning his
26 interaction with Becky.

27 MS. FILO: Yes. I want to be abundantly clear,
28 this is why I brought it off the record last time. The

1 People do not intend to introduce any statements by Mr.
2 Chandler. Not his statement to the police, not his statement
3 to Ms. Vijayendran. If he made any statements to the
4 children, We're going to play a game. This is about Helen
5 Keller. We intend to elicit none of that. And I don't think
6 any of it could be elicited by the defense, so we intend to
7 elicit no statements by Mr. Chandler. And the only reason I
8 brought this particular issue up was because I understand it
9 was part of a -- at the end of a conversation where Mr.
10 Chandler explained his behavior, and I believe that
11 explanation is hearsay and the People don't intend to elicit
12 it.

13 THE COURT: Right. I think it's clear that you are
14 not intending to offer any statements concerning Mr.
15 Chandler. Okay.

16 MS. FILO: I want to make sure the defense is
17 precluded from introducing any type of that conversation as
18 well.

19 THE COURT: Okay. At this point, I believe we're
20 going to recess until Monday morning at 9. I will order both
21 lawyers and Mr. Chandler here at 9:00 o'clock. We'll proceed
22 with opening remarks.

23 And, Ms. Filo, if you need to come in tomorrow or
24 this afternoon to make any arrangements as far as setting up
25 the courtroom, kind of coordinate it with our clerk.

26 We'll go off the record.

27 (Whereupon, the Court recessed.)

28

1 STATE OF CALIFORNIA)
2 COUNTY OF SANTA CLARA)

4 I, JAMIE L. MIXCO, HEREBY CERTIFY THAT:

5 The foregoing is a full, true, and correct
6 transcript of the testimony given and proceedings had in the
7 above-entitled action taken on the above-entitled date; that
8 it is a full, true, and correct transcript of the evidence
9 offered and received, acts and statements of the Court, also
10 all objections of counsel, and all matters to which the same
11 relate; that I reported the same in stenotype to the best of
12 my ability, being the duly appointed and official
13 stenographic reporter of said Court, and thereafter had the
14 same transcribed into typewriting as herein appears.

15 I further certify that I have complied with CCP
16 237(a)(2) in that all personal juror identifying information
17 has been redacted if applicable.

18
19 Dated:

20
21
22 _____
23 Jamie L. Mixco, C.S.R.
Certificate No. 12708

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EXHIBIT 3

(Vol. 8)

TO THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

---o0o---

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)

Plaintiff - Respondent,)

v.)

No. C1223754

CRAIG RICHARD CHANDLER,)

Defendant - Appellant.)

COPY

VOLUME 8

PAGES 555 - 667

JULY 15, 2013

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REPORTER'S TRANSCRIPT ON APPEAL
FROM THE JUDGMENT OF THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA
BEFORE THE HONORABLE ARTHUR BOCANEGRA, JUDGE, AND JURY

---o0o---

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: OFFICE OF THE ATTORNEY GENERAL
BY: KAMALA D. HARRIS,
Attorney General of the State
of California

FOR DEFENDANT-APPELLANT: In Propria Persona

— — — o o — — —

DEFENDANT.

CASE NO. C1223754

— — — 00 — — —

JULY 15, 2013

— — — 00 — — —

JAMIE L. MIXCO
C.S.R. No. 12708

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1 San Jose, California July 15, 2013

2 PROCEEDINGS

3 THE COURT: Thank you, ladies and gentlemen. The
4 record will reflect that both counsel are present, Mr.
5 Chandler is present, all members of the jury are present.

6 And at this time, Ms. Filo, are you ready to
7 present opening remarks?

8 MS. FILO: I am.

9 THE COURT: You may proceed.

10 MR. MADDEN: Could we have a few minutes, Your
11 Honor? My client's family was not aware the doors are open.
12 May I let them in?

13 THE COURT: Yes.

14 MR. MADDEN: Thank you. I apologize, Your Honor.

15 THE COURT: Thank you.

16 Ms. Filo, when you are ready.

17 MS. FILO: Thank you, Your Honor.

18 (Whereupon, the People present opening statements.)

19 THE COURT: Thank you, Ms. Filo.

20 Mr. Madden, do you wish to give opening remarks at
21 this time?

22 MR. MADDEN: I do. If I could take --

23 THE COURT: Okay. Thank you. You may proceed
24 whenever you are ready.

25 (Whereupon, the defense presents opening
26 statements.)

27 THE COURT: Thank you, Mr. Madden.

28 Ladies and gentlemen, we're going to take a

1 ten-minute break. I'm going to ask the members of the jury
2 to report to the jury assembly room on the second floor and
3 we'll call you back promptly in ten minutes.

4 I'm going to ask the people in the audience, if you
5 would please remain in the courtroom until the jury has
6 exited the courtroom.

7 So all members of the jury, you are excused.
8 Please leave your notes on your chair, any personal
9 belongings. They will be there when you return.

10 The jury is leaving the courtroom. For those of
11 you in the courtroom, I want to emphasize the importance of
12 turning your phones off before you come into the courtroom,
13 because if your phone goes off while we're in session, that
14 may result in you being excluded from this trial.

15 So we'll be in recess for ten minutes.

16 (Whereupon, a brief recess was taken.)

17 THE COURT: Record will reflect the jury is
18 present, both counsel are present, Mr. Chandler's present.

19 Ms. Filo, your first witness.

20 MS. FILO: Thank you, Your Honor. The People call
21 Luisana.

22 THE COURT: Yes.

23 MS. FILO: Your Honor, may I move this so I have
24 a --

25 MR. MADDEN: I will do it. Sorry.

26 LUISANA DOE,

27 Being called as a witness on behalf of the People,
28 having been first duly sworn, was examined and testified as

1 follows:

2 THE CLERK: For the record, ma'am, please state and
3 spell your full name.

4 THE COURT: Hold on, ma'am. One minute.
5 First and last name, Ms. Filo?

6 MS. FILO: Um, Your Honor, may we approach really
7 quickly?

8 THE COURT: Yes.

9 MR. MADDEN: I have no objection to not using the
10 last name.

11 MS. FILO: That will be great, Your Honor.

12 THE COURT: Okay.

13 Ma'am, what I would like you to do is just state
14 your first name for the record and spell your first name for
15 the record as well.

16 THE WITNESS: Luisana, L-u-i-s-a-n-a.

17 THE COURT: Thank you, ma'am. The lawyers are
18 going to be asking you some questions. Very important that
19 you wait until they finish the question before you begin your
20 answer, so two people are not speaking at the same time, even
21 if you know what they are going to ask you. Make every
22 effort to only answer the question that is being asked. If
23 your question calls for yes or no -- if the question calls
24 for a yes or no response, you need to verbally say yes or no.
25 And if you hear one of the lawyers say objection, don't
26 answer the question. I will rule and I will let you know if
27 you could answer it or not. Okay?

28 THE WITNESS: Thank you.

1 THE COURT: Thank you.

2 Direct examination.

3 MS. FILO: Thank you, Your Honor. May I approach
4 and get the -- I'm not sure the microphone is on.

5 THE COURT: Thank you.

6 DIRECT EXAMINATION

7 BY MS. FILO:

8 Q. Good morning, Luisana.

9 A. Good morning.

10 Q. Are you nervous?

11 A. Very.

12 Q. Very nervous. Tell me what you're nervous about?

13 A. This whole situation. I'm pretty nervous.

14 Q. Okay. You and I have talked a little bit, and I know
15 you heard me talk to Isabell about the rules of testifying;
16 right?

17 A. Yes.

18 Q. What are the rules that I have given both you and
19 Isabell about testifying?

20 A. You said to say -- rule number one is to always say the
21 truth, and I don't remember. I just remember that.

22 Q. Well, that's the most important one anyway. Okay.

23 Luisana, you remember me saying to try not to talk
24 over each other, so that our fine court reporter could take
25 everyone down?

26 A. Oh; yes, yes.

27 Q. You remember me telling you to try to use words, real
28 words?

- 1 A. Yes, use real words.
- 2 Q. Like yes or no?
- 3 A. Yes.
- 4 Q. And not um-hum or nah-uh?
- 5 A. Yes.
- 6 Q. Okay. Other than that, I told you to come in and do
- 7 your absolute best to tell the truth?
- 8 A. Yes.
- 9 Q. Okay. Luisana, how many children do you have?
- 10 A. Four.
- 11 Q. What are their ages?
- 12 A. I have a nine-year-old, a five-year-old, my
- 13 eight-year-old, and a three-year-old.
- 14 Q. Boy, girl, girl, boy? What you got?
- 15 A. I have boy, girl, boy, girl.
- 16 Q. Your eight-year-old -- I'm sorry -- your nine-year-old,
- 17 what is your nine-year-old's name?
- 18 A. Anthony.
- 19 Q. What is your eight-year-old's name?
- 20 A. Isabell.
- 21 Q. Your five-year-old?
- 22 A. Justin.
- 23 Q. Your three-year-old?
- 24 A. Giselle.
- 25 Q. You are an intact family living together; is that
- 26 correct?
- 27 A. Yes.
- 28 Q. I want to talk to you about your second child, Isabell.

1 Tell me about Isabell?

2 A. Isabell is a very friendly little girl. She's a smart
3 little girl. She's approachable. She's just herself. A
4 very fun little girl.

5 Q. What grade will Isabell start this coming school year?

6 A. What grade?

7 Q. What grade will she start this year?

8 A. She's starting her fourth grade.

9 Q. Fourth grade?

10 A. Um-hum.

11 Q. Okay. So she'll start fourth grade for the 2013/2014
12 school year?

13 A. Correct.

14 Q. And for the 2012/2013 school year, she was in third
15 grade?

16 A. Correct.

17 Q. And for the 2011/2012 school year, she was in second?

18 A. Correct.

19 Q. Okay. So, Luisana, I want to talk to you about
20 Isabell's second grade year. That would have been that 2011
21 to 2012 school year. Okay?

22 A. Okay.

23 Q. Where did Isabell attend school that year?

24 A. O.B. Whaley Elementary.

25 Q. How long had Isabell been going to O.B. Whaley
26 Elementary when she started her second grade year?

27 A. When she started?

28 Q. Right. So had she gone to kindergarten there?

1 A. Yes. She started her kindergarten year there and
2 attended first grade and second grade.

3 Q. Okay. So she was used to the campus, she had other
4 friends on campus, things like that?

5 A. She did.

6 Q. Who was Isabell's second grade teacher when she began at
7 O.B. Whaley that year?

8 A. Chandler.

9 Q. And do you see Craig Chandler in the courtroom today?

10 A. I do.

11 Q. Okay.

12 MR. MADDEN: I will stipulate identification, Your
13 Honor.

14 MS. FILO: Thank you, Your Honor.

15 THE COURT: Okay. Court will -- I mean, record
16 will reflect in-court identification of Mr. Chandler.

17 MS. FILO: Thank you.

18 BY MS. FILO:

19 Q. Can you tell me what Isabell's attitude had been about
20 school during her kindergarten, first grade, beginning of
21 second grade? What was her attitude about school?

22 A. She was looking forward to it every single day. Every
23 single day she was ready to go. Woke up with a smile every
24 day. There -- she was always ready, always ready to be there
25 and learn and ready to notice stuff. One happy person.

26 Q. All right. So she wasn't the kid who was constantly
27 trying to get out of school or trying to figure out how to
28 stay home for the day, anything like that?

1 A. No, never.

2 Q. Okay. Luisana, was there a point at which you saw
3 Isabell's attitude towards school change a little bit?

4 A. I did.

5 Q. Do you know when that was?

6 A. It started before they went to break. That's when she
7 was more, like, happy she was going to have a break. So
8 that's when it didn't -- that's when -- before the school
9 break, during that -- almost towards the end of the school,
10 the year -- I apologize. That's when I started noticing that
11 she was just feeling not so good.

12 Q. Okay. And, Luisana, when you are talking about the
13 break, we're talking -- you're talking about the winter sort
14 of holiday break; is that right?

15 A. Yes, the winter break.

16 Q. And that's usually what? Two, two and a half weeks in
17 the December/January time frame?

18 A. It's about two weeks.

19 Q. And it usually spans kind of Christmas and New Year's,
20 then the kids come back to school sometime in January?

21 A. Yes.

22 Q. Okay. So it was just prior to that winter break you
23 said?

24 A. Yes.

25 Q. Was it a dramatic change or was it --

26 A. No. No, it wasn't dramatic.

27 Q. Okay. But it was noticeable?

28 A. Yes.

1 Q. So you had your winter break with your family?

2 A. Yes.

3 Q. Anything traumatic occur during that winter break?

4 A. No, no.

5 Q. Happy family time over that break from school?

6 A. Yes, that was it. We -- nothing out of the ordinary.
7 Everything was normal.

8 Q. Isabell returned to school after that break?

9 A. Yes.

10 Q. What was her attitude about going to school that morning
11 she had to wake up and go back to school after the winter
12 break?

13 A. She was more like dragging herself. Although she did
14 get up, she did go to school, but it was more like a slower
15 type of getting ready. She was -- usually she's quick, up
16 and ready, will eat breakfast, and she was ready to go. And
17 it was just taking her longer than usual.

18 Q. And what about over the next few days? What was
19 Isabell's attitude about going to school over those next few
20 days?

21 A. She didn't want to go.

22 Q. What was she saying to you?

23 A. She was telling me that she wasn't feeling good. She
24 felt sick.

25 Q. Did she go to school anyway?

26 A. She did.

27 Q. Luisana, I want to ask you about Monday morning, January
28 9, 2012. That morning, tell me how you got ready and what

1 the kids were doing that morning?

2 A. That morning, we got up. I got up as usual. I went to
3 wake up my daughter, my kids, and time for them to get ready.
4 She was still -- Isabell was complaining that she was still
5 feeling sick, but I said: Come on, mamas, it's okay. Get
6 ready. You might get better over there. If you feel sick,
7 go to the nurse's room and you could call me. Anthony got
8 ready as well, and --

9 Q. Luisana, do you normally walk your children to school?

10 A. I do.

11 Q. And at that time, the distance between your house and
12 O.B. Whaley was how far?

13 A. I would say about 300 feet. I don't know.

14 Q. Not very far?

15 A. No.

16 Q. Okay. So that morning, Isabell did get ready for school
17 eventually?

18 A. Yes, she did.

19 Q. Did you make it to school --

20 A. We did not.

21 Q. -- with her? On your normal walk, did you make it to
22 school?

23 A. No.

24 Q. Why not? What happened?

25 A. Well, that day, we stepped out of the door and that's
26 when Isabell pulled me back and she said that she didn't want
27 to go to school. And it was that look, that look in her face
28 that I knew something was wrong, and she pulled me back.

1 We're holding hands and she pulled me back: Mom, I don't
2 want to go to school. I said: What's wrong? She said:
3 Because, mom, I just don't. And that's when I asked her why.
4 And that's when she said: Because Mr. Chandler's doing stuff
5 to me.

6 Q. What did you do, or what did you say when Isabell told
7 you: Mr. Chandler is doing stuff to me?

8 A. I said: What? And I quickly went back in the house and
9 I sat her on the couch and I was on -- I was kneeling on the
10 floor, and I said: What happened? Who -- what do you mean?
11 Tell me why are you saying this? And she started crying.
12 Well, more she started crying and she was explaining to me
13 what was going on.

14 Q. What did Isabell explain to you? When you said:
15 Isabell, you need to tell me what happened. What is it that
16 happened? What did she say?

17 A. She said that Mr. Chandler was putting something in her
18 mouth.

19 Q. Did she describe what it was that he was putting in her
20 mouth?

21 A. I asked her: What was it? What did you feel, or did it
22 taste like anything? And she told me that it was round and
23 she just said that she gags.

24 Q. Did she -- what were you like as she was describing this
25 to you?

26 A. Going crazy, yelling.

27 Q. Why were you going crazy? Why were you yelling?

28 A. She's my baby girl. Because as an adult, I already -- I

1 already pictured, and she has no idea. It was too much.
2 Maybe I shouldn't have reacted the way I did in front of her.
3 Now it's just -- I think it's just a mom's instinct, your
4 reaction.

5 Q. I want to be clear, Luisana, you said from the moment
6 you looked at Isabell before she said one word, you knew
7 something was wrong?

8 A. I did.

9 Q. You said that Isabell told you that the thing was round
10 and it made her gag?

11 A. Um-hum. I asked her.

12 Q. Did she say anything else about what was in her mouth?

13 A. I don't remember.

14 Q. Okay. Did she tell you how long ago this had happened?

15 A. I asked her how long that it had been, and she didn't
16 know how to give me a date. Well, she didn't -- she just
17 said -- I asked her if it was before break, and she said yes.

18 Q. Okay. Now, what is Isabell's birthday?

19 A. November 11th, 2003.

20 Q. So at the time that Isabell is giving this information
21 to you, she's just two months -- not even quite two months
22 past her 7th birthday?

23 A. Yes.

24 Q. What did you do with this information that you received
25 from Isabell? What do you do next?

26 A. I just -- I got in my truck and I drove to school.

27 Q. Did you leave the children at home?

28 A. I did. Um-hum.

1 Q. Okay. You drove to school and what did you do when you
2 got to the school?

3 A. I was yelling like crazy, and the principal was there.
4 I was just yelling and crying, and that's when I was talking
5 to the principal.

6 Q. Okay. Was that Ms. Peery?

7 A. Yes, Ms. Peery. I think that's her name.

8 Q. Okay. Did Ms. Peery say anything to you that caused you
9 immediate alarm?

10 A. Oh, yes.

11 Q. What did she say?

12 A. Because I -- soon as I told her: What the "F" is Mr.
13 Chandler doing to my daughter? She said: What do you mean?
14 And I said: Yes, my daughter's telling me that he did this,
15 this, and that. She said: Oh, my God. Not again. So that
16 gave me -- that immediately let me know that it had happened
17 before. And so I thought it was -- within that moment, I
18 said: What did you mean not again? Like -- and she just
19 said that she just had a meeting with some parents with the
20 same situation and they had resolved it and they had talked
21 about it. And I just said: No, I don't believe it. No, no.
22 This isn't happening.

23 Q. Luisana, you said that Isabell described it being round
24 and it kind of gagging to her. Did she tell you anything
25 more about -- let me ask you this.

26 Was she able to see what Mr. Chandler was putting
27 in her mouth?

28 A. No. I asked.

1 Q. Why not? Did she tell you why she couldn't see things?

2 A. She said that he would blindfold her.

3 Q. Did she tell you whether or not this was happening
4 when -- during the day? Like, what were the circumstances
5 surrounding this?

6 A. During recess.

7 Q. Did she indicate that the whole class was involved in
8 this?

9 A. No.

10 Q. Did she tell you that she was alone with Mr. Chandler?

11 A. Yes.

12 Q. So she told you she was alone blindfolded when a round
13 object was put in her mouth that caused her to gag?

14 A. Yes.

15 Q. Do you have any doubt in your mind what Isabell was
16 communicating to you?

17 A. No.

18 Q. What did you do after you left the school?

19 A. I went back home. And because they asked me if I could
20 take Isabell back so that she could go and say what she had
21 told me, I said yes. So I took her. I called my sister to
22 see if she could come and watch my kids and I told her what
23 was going on and she came right away. I went back to the
24 school with Isabell and we sat down in the office area and
25 Isabell was telling them what was happening.

26 Q. Did she largely repeat to Ms. Peery what she had already
27 told you?

28 A. The same thing.

1 Q. Luisana, since that time, Isabell has been -- you have
2 been interviewed by law enforcement?

3 A. Just when everything was happening.

4 Q. You were interviewed that kind of first day when the
5 police were ultimately --

6 A. Um-hum.

7 Q. Who called the police?

8 A. I did.

9 Q. Why?

10 A. Because I felt I had to. I felt that -- I mean,
11 obviously, the principal didn't do anything and that's her
12 job. And somebody had to do it. I mean, me as a mother,
13 it's my responsibility to watch over her, regardless if the
14 principal decides to call or not. I mean, --

15 Q. So you were interviewed by law enforcement. Did law
16 enforcement come out and interview Isabell? They come out
17 that day in uniform and interview her briefly?

18 A. Yes, um-hum.

19 Q. And then you brought her down to the -- did you bring
20 her down someplace else to be interviewed by law enforcement?

21 A. Yes.

22 Q. In the Bank of America building, kind of not very far
23 from here?

24 A. Yes, it's not far from here.

25 Q. Okay. Isabell has had to come to testify at a
26 preliminary hearing? Yes?

27 A. I'm sorry.

28 Q. That's okay. She had to come and testify at a

1 preliminary hearing?

2 A. Yes.

3 Q. And she's being called to testify here in this
4 proceeding?

5 A. Yes.

6 Q. Luisana, what has this done, this entire situation done
7 to your family?

8 A. Oh, it's changed so much. How we live. It's affected
9 my children, my oldest son, my marriage. It has affected my
10 daughter tremendously, our way of -- my way of thinking. My
11 prospective of seeing things that happen are gone at the
12 moment, and it's very hard. It's very difficult to deal
13 with.

14 Q. Luisana, if you had the opportunity to turn back the
15 clock and have Isabell in an entirely different school with
16 an entirely different teacher, is there -- how long would it
17 take you to make that decision? Would you turn back the
18 clock and do it and have her be in someone else's class with
19 some other school?

20 A. With the same situation, you mean?

21 Q. No. I mean, if you could start all of this over, I
22 mean, if you had the opportunity to just never have had this
23 happen in your life, would that be your choice?

24 A. I prefer it never ever happening. I thank God it
25 happened in the way just because it won't affect anybody
26 else. And if it had to happen like this and it -- I had to
27 do the call, it's okay. But just to know that it may not
28 happen ever again, it pleases me.

1 Q. Thank you, Luisana.

2 MS. FILO: I have nothing further.

3 THE COURT: Thank you, Ms. Filo.

4 Cross-examination, Mr. Madden?

5 MR. MADDEN: Thank you, Your Honor. Would this be
6 an acceptable place to do the cross-examination, Your Honor?

7 THE COURT: Yes.

8 CROSS-EXAMINATION

9 BY MR. MADDEN:

10 Q. Luisana, let me first apologize for calling you by your
11 first name. I hope you're okay with that?

12 A. I'm fine. Thank you.

13 Q. We have never met; correct?

14 A. No.

15 Q. All right. So I'm going to ask you some questions. I
16 want you to do the best you can to answer them. It's clear
17 to me that you have been very emotional about this and your
18 life since basically January the 9th of 2012; right?

19 A. Correct.

20 Q. Okay. Now, I'm going to ask you to do me a favor, if
21 you can. Do your best to speak up. You have kind of a soft
22 voice, and I know that it might be difficult. If I can't
23 hear you, because I have old ears, I may ask you to speak up
24 a little bit. I'm not trying to be mean. I want to make
25 sure I understand what you are saying. Okay?

26 A. Sure.

27 Q. Also, if you need a break, let the Court know, and this
28 isn't going to be a marathon session. I just want you to

1 answer the questions as best you can. Okay?

2 A. Yes.

3 Q. All right. If I ask a question and you don't understand
4 it, please tell me that you don't understand and I'll re-word
5 the question, if I can, so that you could understand it.

6 Okay?

7 A. Okay.

8 Q. I will assume that if you answer my question, you
9 understood the question. Okay?

10 A. Okay.

11 Q. Unless you tell me otherwise.

12 A. Okay.

13 Q. All right. Now -- so you live very close to O.B. Whaley
14 School; correct?

15 A. I lived, yes.

16 Q. All right. And the year that your daughter was with
17 Ms. Chandler -- Mr. Chandler, that is the only year that he
18 was her teacher; correct?

19 A. Yes.

20 Q. Okay. She was in the second grade then; right?

21 A. Yes.

22 Q. Okay. And did you understand that to be a combo class?

23 A. Yes.

24 Q. Meaning, half second-graders and half third-graders;
25 correct?

26 A. Yes.

27 Q. All right. Did you walk all of your children to school
28 every day?

1 A. Yes. Most of the time, when it wasn't raining.

2 Q. Okay. I'm not going to pin you down on exact things. I
3 wouldn't expect you to remember that. But your normal
4 routine would be at that time to have walked your children to
5 school, and how many kids were at O.B. Whaley then?

6 A. At that time, two. Yeah, just my older son and Isabell.

7 Q. Okay. How old was he at the time Isabell was in Mr.
8 Chandler's class?

9 A. Seven.

10 Q. What grade was he in? Second grade?

11 A. Second grade.

12 Q. Okay. Now, you were an active parent; correct? An
13 active school parent?

14 A. Yes.

15 Q. You walked your children to school?

16 A. I did.

17 Q. You attended school functions?

18 A. When they had special occasions, like celebrations and
19 talent shows and stuff, yes.

20 Q. Give me an example of celebrations.

21 A. The talent shows, awards.

22 Q. Okay. How about back-to-school night?

23 A. Never miss one.

24 Q. All right. Then how about -- was there another time
25 when parents would meet to go over progress reports for how
26 the kids were doing?

27 A. I believe we did.

28 Q. Okay. I'm not going to hold you to it. If you don't

1 remember, that's okay. Do you know approximately what time
2 of the school year the events that you just described
3 happened, assuming they all happened between August and
4 January, the 9th?

5 A. Um, the last show, it was a talent show, and I'm not too
6 sure if it was November, October. I'm not quite sure.

7 Q. In the Halloween/Thanksgiving area?

8 A. Around that area.

9 Q. That would have been kind of a big thing?

10 A. Yes.

11 Q. Okay. Children perform in the auditorium, that kind of
12 thing?

13 A. Yes.

14 Q. Isabell participated in something at the talent show?

15 A. With her class.

16 Q. Okay. The whole class? It was in -- is that Mr.
17 Chandler's class?

18 A. Yes.

19 Q. Okay. Did you talk with Mr. Chandler at any time about
20 Isabell and her performance in the class and whether or not
21 she could maybe have an individual performance the next time
22 they had one?

23 A. No.

24 Q. You don't remember that?

25 A. No.

26 Q. When you say you don't remember something, I want to
27 make sure I understand. One interpretation of the response
28 "I don't remember" means: Maybe I did, maybe I didn't. I

1 just don't remember?

2 A. No. Was your question: Did Mr. Chandler talk to you
3 about Isabell participating alone?

4 Q. Actually -- I'm sorry. I cut you off. Finish.

5 A. I understood your question was: Did Mr. Chandler ask
6 you if Isabell could do a participation on her own?

7 Q. If I asked that, I asked the wrong question. What I
8 meant to ask you was, did you ever approach Mr. Chandler
9 after the talent show and discuss with him your desire to
10 have your daughter perform in an individual -- as an
11 individual participant in the next talent show?

12 A. I don't remember that.

13 Q. Okay. Fair enough.

14 Now, as a busy mother and with four children, you
15 were and are busy; right?

16 A. Very busy.

17 Q. Very. Did Isabell have any attendance problems? When I
18 say attendance problems, did she have any trouble getting to
19 school on time in the mornings?

20 A. No.

21 Q. Did she have any history of being tardy?

22 A. I don't remember her being tardy. Maybe. I don't
23 remember that.

24 Q. Okay. You went to the back to -- back-to-school night
25 at the beginning of the school year; right? The year that
26 Isabell was in Mr. Chandler's class?

27 A. Yes.

28 Q. All right. And I assume that he laid out for you and

1 the other parents what his rules and expectations were?

2 A. Um --

3 Q. Concerning attendance?

4 A. I don't remember exactly, but he mentioned at the
5 beginning.

6 Q. All right. Did you -- strike that.

7 Were you aware of the four different groups of
8 students within Mr. Chandler's class?

9 A. No.

10 Q. All right. Were you aware that the third-graders were
11 separated from the second-graders and they were on the other
12 sides of the classroom?

13 A. I don't know how he had it structured. I just know that
14 it was a combined class.

15 Q. Okay. But you don't really -- the details that I'm just
16 suggesting here, you don't remember. I'm not saying you
17 should.

18 A. He never mentioned it to parents that second-graders
19 were here, third-graders -- is that what you are saying,
20 or --

21 Q. I'm just asking you to give me information, if you
22 remember?

23 A. No.

24 Q. Okay. Do you recall your daughter Isabell ever talking
25 about suffering consequences as a result of being tardy?

26 A. No.

27 Q. Did she ever discuss with you the loss of points for her
28 group --

1 A. No.

2 Q. -- if she was tardy?

3 A. No.

4 Q. You didn't know anything about the point system?

5 A. She never mentioned anything to me.

6 Q. Did Isabell have any difficulty, or did she ever have a
7 tendency to forget to do either her entire homework or parts
8 of her homework?

9 A. She always had her homework done.

10 Q. Okay. You're not aware of her losing any points because
11 of not having her homework turned in?

12 A. She always turned her homework in.

13 Q. Okay. All right.

14 How many times, then, would you -- how many times
15 do you remember meeting Mr. Chandler and talking with him
16 about your daughter from August of that year until January,
17 the 9th?

18 A. Maybe twice. I don't --

19 Q. Do you recall speaking with him at the progress report
20 meeting?

21 A. Yes.

22 Q. That would have been, I assume, during the evening?

23 A. Yes.

24 Q. Or perhaps late afternoon?

25 A. Perhaps.

26 Q. Okay. And do you recall him telling you that it was
27 important that Isabell be on time and important that she do
28 her homework?

1 MS. FILO: Objection, Your Honor. Hearsay.

2 THE COURT: Any response, Mr. Chandler -- I'm
3 sorry -- Mr. Madden? I apologize.

4 MR. MADDEN: I'm so rattled I lost the question,
5 Your Honor.

6 THE COURT: You're asking her if she recalls
7 certain statements Mr. Chandler made to her, and there was a
8 hearsay objection.

9 MR. MADDEN: Let me ask the question this way.

10 THE COURT: Objection is sustained.

11 BY MR. MADDEN:

12 Q. Does that help you remember whether or not you had any
13 discussion with Mr. Chandler concerning how important it was
14 for Isabell to be on time?

15 MS. FILO: Objection. Hearsay.

16 THE COURT: Sustained.

17 BY MR. MADDEN:

18 Q. All right. Let me get to the day that you testified to
19 I think that you just broke. Okay?

20 A. Um-hum.

21 Q. I know that this is the most painful day, but you'll
22 forgive me if I have to ask you questions about this. Okay?

23 A. Yes.

24 Q. All right. So I want to make sure I understand this.
25 You really had a limited amount of information from your
26 daughter when you broke; correct?

27 A. Well, after she told me what was being done to her.

28 Q. Well, she actually didn't know what was being done to

1 her; right?

2 A. She -- she doesn't know.

3 Q. Okay. Fair enough. So -- but in your mind, you did
4 know?

5 A. Of course.

6 Q. Okay. And that's what caused you to break? You knew
7 what she didn't know?

8 A. From what she explained, I knew.

9 Q. I understand. You formed an opinion based on the
10 limited information that she gave you; correct? And the
11 opinion was Mr. Chandler had put his penis in your daughter's
12 mouth?

13 A. Yes.

14 Q. All right. Now, the information you had at that point
15 from your daughter, I'm going to give you a list here. Let
16 me know if this is complete. First of all, she didn't want
17 to go to school that day?

18 A. Um-hum.

19 Q. Correct?

20 A. Yes.

21 Q. You started to go to school, she held you back
22 physically, and she was upset; correct?

23 A. Yes.

24 Q. All right. Then she said: Mr. Chandler, he's doing
25 something to me; correct?

26 A. Yes.

27 Q. All right. And that's when you essentially said: What?

28 A. Yes.

1 Q. So right then, you had a daughter that appeared to be
2 upset, saying he's done something to me, and you were
3 essentially at that point on high alert?

4 A. Yes.

5 Q. Okay. Then you went back into your house, you sat her
6 on the couch, and you kneeled down in front of her?

7 A. Yes.

8 Q. Had you ever done that before, to ask her to have a
9 conversation with her?

10 A. No.

11 Q. All right. At that time, were you crying?

12 A. No.

13 Q. Okay. But then she told you: He covers my eyes and he
14 puts something in my mouth; correct?

15 A. Yes.

16 Q. And that's when you broke?

17 A. I think my voice went louder.

18 Q. Okay. But at this point she was upset, she had said
19 he'd done something to her, and now it's getting worse: He
20 put something in my mouth?

21 A. Um-hum.

22 Q. Correct?

23 A. Yes.

24 Q. And covered my eyes?

25 A. Yes.

26 Q. At that point you had heard enough. You knew what had
27 happened?

28 A. Yes.

1 Q. Okay. Then you asked her other questions. You asked
2 her a question: Is it like something hard; correct?

3 A. Yes.

4 Q. And she said: Uh, kind of; right?

5 A. Yes.

6 Q. You asked: Is it liquid? And she said no; correct?

7 A. Yes.

8 Q. You asked her if it was candy, and she said no; correct.

9 A. Yes.

10 Q. You asked her if it was a pill, and she said no;
11 correct?

12 A. I don't -- I don't remember asking if it was a pill.

13 Q. All right. Do you remember talking to a uniformed
14 police officer at your house later in the morning of January
15 9th after you called the police?

16 A. Yes.

17 Q. Now, I'm assuming he was a patrol officer wearing a San
18 Jose Police Department uniform?

19 A. Yes.

20 Q. I believe that he arrived with another member of the San
21 Jose Police Department and they interviewed Isabell upstairs
22 in her room. Would that be correct?

23 A. Yes.

24 Q. All right. Were you there for that?

25 A. Not when they were interviewing her.

26 Q. Okay. But you had a conversation with them before they
27 interviewed her, telling them what Isabell had told you that
28 morning?

1 A. Um, they took me on the side and they took Isabell to
2 the top.

3 Q. Okay. But at some point you told the uniformed police
4 officers what Isabell had told you?

5 A. Yes.

6 Q. And you told them that before they interviewed Isabell;
7 correct?

8 A. Um, I think we were interviewed at the same time in
9 different --

10 Q. Fair enough. You also asked her if he touched her
11 anywhere; right?

12 A. Yes.

13 Q. And, I assume, you pointed to her vaginal area, perhaps
14 her buttocks area, perhaps her breast area; correct?

15 A. I pointed to private parts.

16 Q. Does that mean her vaginal area?

17 A. Yes.

18 Q. Okay. And that's typically what children would call
19 that; correct? Private parts?

20 A. Yes.

21 Q. That's how she referred to them around the house?

22 A. Yes.

23 Q. Okay. She said no; correct?

24 A. She said -- she said no. Yeah, she said no.

25 Q. Okay. And you asked her what her hands did; correct?

26 A. I did. I didn't ask her where your hands were. I said:
27 What would you do? What were you doing at that moment?

28 Q. Exactly. And she said nothing; correct?

1 A. Yes.

2 Q. All right. So you were essentially asking her the
3 question about liquid, trying to form an opinion as to
4 whether or not Mr. Chandler ejaculated into her mouth or on
5 her; correct?

6 A. Repeat your question, please.

7 Q. Yes. The reason that you asked about liquid was because
8 you thought Mr. Chandler had put his penis in her mouth and
9 you wanted to know if anything came out of it; correct?

10 A. Yes.

11 Q. She said no; right?

12 A. She said -- she said no.

13 Q. Okay. You asked her what he said to her or told her
14 while he was doing this; right?

15 A. Yes.

16 Q. And she told you, that is, Isabell told you: He tells
17 me to move my tongue; correct?

18 A. Yes.

19 Q. All right. When you were answering Ms. Filo's questions
20 earlier, you volunteered something that I want to ask you
21 about. And you said -- referring to, I think, the fact that
22 you broke: Maybe I shouldn't have reacted as I did in front
23 of her. That's what I wrote down. You remember saying that?

24 A. Yes.

25 Q. Okay. Could you tell me what you meant by that?

26 A. I don't like to alarm her when situations -- or when
27 this situation that has happened. She -- she's very quick at
28 sensing when something is wrong.

1 Q. Yes.

2 A. That's why I said I shouldn't have reacted the way I did
3 because she knows now something bad happened.

4 Q. Because of the way that you reacted?

5 A. It --

6 Q. Please understand, I'm not blaming you. No one is
7 blaming you and you shouldn't blame yourself.

8 Let me ask you this. Would it be a fair guess on
9 my part that that was the first time in her life that she had
10 ever seen you in that state?

11 A. Yes.

12 Q. Totally emotional, angry, deathly afraid, deeply, deeply
13 concerned for your daughter's safety?

14 A. She seen it.

15 Q. I'm sorry?

16 A. Yes.

17 Q. Okay. Now, that must have -- and I think that's what
18 you are referring to -- that must have scared her to death;
19 correct?

20 MS. FILO: Objection, Your Honor. Calls for
21 speculation.

22 BY MR. MADDEN:

23 Q. Did she appear to be scared?

24 A. Since the beginning, yes. She was very nervous telling
25 me what was going on. She was -- she was scared.

26 Q. Right. Okay. Did you -- you asked your daughter
27 whether or not he made any noises while he was doing this;
28 correct?

1 A. Yes.

2 Q. Would it be a correct assumption on my part that you
3 asked her about the word "noises" because in your own mind,
4 having concluded that he had put his penis in her mouth, you
5 wanted to know if there were any sounds or noises that she
6 could describe that were consistent with male sexual
7 activity?

8 A. I asked her what was -- did he say anything? Was he
9 saying anything to maybe conclude what was in my mind.

10 Q. And she said he didn't say anything; correct?

11 A. She just said that he would say: Isabell, move your
12 tongue around. Move your tongue around, Isabell.

13 Q. All right. However, other than those words, you
14 specifically asked if he was making any other noises;
15 correct?

16 A. I don't --

17 Q. Do you recall advising Officer Koenig that she wasn't
18 making -- that your daughter told you that Mr. Chandler was
19 not making any noises during this?

20 A. I don't remember any, yeah.

21 Q. Okay. When she described the object as the object in
22 her mouth as round; correct?

23 A. I believe so.

24 Q. I'm sorry, you have to speak up.

25 A. I believe so.

26 Q. Okay.

27 MR. MADDEN: Excuse me, Your Honor.

28 ///

1 BY MR. MADDEN:

2 Q. You testified earlier that you believe your daughter
3 said she gagged?

4 A. She didn't say "I gagged." I asked her: Did you gag?
5 Did it -- did you kind of choke? Did you feel like you were
6 choking, and she said yes.

7 Q. Did you ever tell a police officer in response to that
8 question no?

9 A. I don't remember.

10 Q. All right. Do you recall talking to Officer Pierce?

11 A. Yes.

12 Q. You recall talking to him about the subject of your --
13 whether or not your daughter said she had choked? You don't
14 remember?

15 A. I don't remember.

16 Q. Okay. You don't recall telling him no?

17 A. I don't remember.

18 Q. Okay. In terms of how your daughter reacted after she
19 saw that you had broken, I assume you were on your knees in
20 front of her; correct?

21 A. I was. After she told me what had happened, I stood up
22 and I was just holding my head.

23 Q. All right. What do you remember your daughter's
24 reaction being after you broke in front of her?

25 A. She was crying.

26 Q. A lot harder than she was before; correct?

27 A. The same as always.

28 Q. Same as always. Okay.

1 Do you recall asking your daughter after Mr.
2 Chandler put the object in her mouth, whether or not he said
3 anything to her?

4 MS. FILO: Objection, Your Honor. Asked and
5 answered.

6 MR. MADDEN: I don't believe that question has been
7 asked, Your Honor.

8 THE COURT: Although I believe it has been asked
9 and she answered it, I will allow you to do it one last time.
10 You may answer the question, ma'am.

11 THE WITNESS: Could you repeat the question,
12 please?

13 BY MR. MADDEN:

14 Q. Probably not, but I will try to rephrase it.

15 I'm not asking questions about what Mr. Chandler
16 said while the object was in your daughter's mouth, but after
17 he had taken the object out of her mouth. Did he give her --
18 did she say that he gave her any instructions or said
19 anything about what you should do or not do?

20 A. I don't remember that.

21 Q. Okay.

22 MR. MADDEN: I have no further questions at this
23 time, Your Honor. I think I may be done, but I would like
24 this witness subject to recall.

25 THE COURT: Ms. Filo, you have redirect?

26 MS. FILO: I do.

27 THE COURT: Okay. Lengthy or brief?

28 MS. FILO: I hope brief.

1 THE COURT: Okay. We'll see.

2 REDIRECT EXAMINATION

3 BY MS. FILO:

4 Q. Luisana, were you ever notified by the school that
5 Isabell was chronically tardy?

6 A. I don't -- don't think she was chronically tardy.

7 Q. I mean, you know, I took my kid to Disneyland and I got
8 this huge note we were all going to be suspended, like, one
9 day. They give you these huge notes. I mean, were you ever
10 notified by the school there was some huge problem about
11 tardies?

12 A. I know there was always a huge -- yes, I do. There was
13 always a huge problem now that I remember. Even if they were
14 one minute late, they would be marked tardy. I mean -- and
15 that's how it was.

16 Q. But what you mean is, I think what I'm hearing you say
17 is, that it was a big issue with the school that tardies were
18 taken seriously. But what I'm asking is, did you ever get a
19 letter sent home that said your daughter Isabell is tardy all
20 of the time?

21 A. I don't remember.

22 Q. Okay. And I mean, attendance records are taken?

23 A. Yes.

24 Q. Would you defer to the attendance records as to how
25 often Isabell was tardy?

26 A. Whatever they have. I can't go back and remember if
27 that's how many times that she was tardy or not.

28 Q. Okay. So if I said to you that she was tardy six times

1 over a four-month period, would that seem about right to you?

2 A. I wouldn't know what to say.

3 Q. Okay.

4 A. Maybe. I don't know.

5 Q. I guess what I want to get at, were you ever called into
6 the principal's office and said: Luisana, you got to get
7 your kid to school on time?

8 A. No.

9 Q. Did you get certified letters in the mail that said you
10 got to get your kid to school on time?

11 A. I don't remember that, no.

12 Q. Okay. And were you notified of homework problems
13 that -- I mean, you say that Isabell got her school work in.
14 She had her homework done?

15 A. She always did. She always did.

16 Q. So did you ever get a note from Mr. Chandler that said:
17 Hey, by the way, Isabell got these big problems not getting
18 her homework done?

19 A. Oh, no. Never.

20 Q. You weren't notified by e-mail there was any problems
21 with school work?

22 A. No, never. No.

23 Q. You had no reason to believe that there was anything
24 wrong --

25 A. No.

26 Q. -- with Isabell's work?

27 A. No, never.

28 Q. Did you ever get a notice from Mr. Chandler that said:

1 Hey, by the way, we're going to do this new program at
2 school, and just want to let you know I'm going to be
3 blindfolding the kids and I'm going to put some food in their
4 mouth?

5 A. No.

6 Q. Were you given the opportunity to tell Mr. Chandler:
7 Hey, by the way, my kid is allergic to nuts?

8 A. No.

9 Q. You had no idea that this was going on?

10 A. No, not a clue.

11 Q. Okay. When you were asking Isabell about these various
12 things, you said: Is it food? Was it candy? Was -- you
13 went through a list of things; right?

14 A. Yes.

15 Q. Why?

16 A. To not assume before because I didn't want to assume. I
17 needed to make sure it's not what I was thinking.

18 Q. Okay. So you went through some questions: It wasn't
19 candy; right?

20 A. Yes.

21 Q. Wasn't chocolate?

22 A. Um-hum.

23 Q. It didn't have a smell?

24 A. Yes.

25 Q. I mean, you went through some reasonable questions to
26 try to figure out, I mean, is there some other explanation
27 for this?

28 A. Not to my understanding, no.

1 Q. Because you asked those questions; right?

2 A. I asked her and to make sure I didn't want to -- I mean,
3 I already was thinking stuff and I had to -- I asked her and
4 I didn't want to conclude that it was what I was thinking.

5 Q. In fact, there has to be a part of the mom that is
6 thinking: Please, God, let there be some other explanation
7 for this?

8 A. I wish there was.

9 THE COURT: Excuse me, Ms. Filo. I do not want to
10 restrict your redirect. So at this time, we're going to take
11 the afternoon recess -- excuse me -- the --

12 MS. FILO: I have one last question. If you will
13 let me ask that one last question, I will be done.

14 THE COURT: I wasn't sure how long, but go ahead.

15 MS. FILO: Thank you.

16 BY MS. FILO:

17 Q. Luisana, if you told Det. Pierce that Isabell told you
18 that the item did not make her choke or gag, was that a
19 misstatement? If, in fact, I have a transcript that says:
20 Luisana, did Isabell tell you that the thing made her choke,
21 and you answered no to that, would that be a misstatement?
22 That's inaccurate because she did tell you that the item made
23 her choke or gag?

24 MR. MADDEN: Objection. Compound question.

25 THE COURT: Sustained. If you could rephrase.

26 MS. FILO: Sure.

27 BY MS. FILO:

28 Q. Did Isabell tell you that the thing in her mouth made

1 her choke or gag?

2 A. She told me that.

3 Q. Okay. And if there is any transcript anywhere that
4 indicates something different, it's just incorrect; it was a
5 misstatement?

6 A. I don't know.

7 Q. Okay.

8 A. I --

9 Q. You have no other explanation for why that would be
10 there because Isabell did, in fact, tell you that the item
11 made her choke or gag?

12 A. I believe that's what she said.

13 Q. Okay.

14 MS. FILO: That's all I have. Thank you.

15 THE COURT: Thank you.

16 Recross, Mr. Madden?

17 MR. MADDEN: You know, I'm going to have more
18 questions. Perhaps it would be a good time to recess.

19 THE COURT: Okay. Thank you.

20 Ladies and gentlemen, we're going to take the
21 morning recess. I'll order all members of the jury to report
22 to the jury assembly room on the second floor at 1:30 and
23 we'll continue with the trial testimony.

24 Please remember my admonition, not to discuss or
25 form any opinions on this case until it's finally submitted
26 to you for your deliberations. Very important that you not
27 discuss this or get any other outside information about this
28 case other than what's presented in this courtroom.

1 So we'll be in recess until 1:30. I will order all
2 members of the jury and counsel back here at 1:30.

3 Ladies and gentlemen, thank you very much for
4 allowing the jury to exit the courtroom before you exit.

5 (Whereupon, the Court took the noon recess.)
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1 AFTERNOON PROCEEDINGS

7	MS. FILO: Yes.
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9 | Mr. Madden, you were going to begin recross?

12 THE COURT: Okay.

16 THE COURT: So you have an exhibit you want marked
17 as?

19 THE COURT: B. A available?

21 THE COURT: Okay. Then at your request, we'll mark
22 it as Defense Exhibit B.

25 MR. MADDEN: Thank you, Your Honor.

27 MR. MADDEN: Sorry to be difficult.

1 MR. MADDEN: It's okay to approach the witness,
2 Your Honor?

3 THE COURT: Yes. Thank you.

4 REXCROSS-EXAMINATION

5 BY MR. MADDEN:

6 Q. Luisana, I'm going to give you a document. I'm going to
7 stay here just for a second because I'm guessing you have
8 never seen it. This has been represented to me as your
9 daughter's attendance records of your -- we're talking
10 about -- and please excuse me. I'm going to point. The
11 tardies are noted with the letter "L" with a circle around
12 them?

13 A. Um-hum.

14 Q. And I want to go -- it looks like it came from a
15 computer, but there appear to be two tardies in the month of
16 August, beginning of the school year; there appears to be two
17 in September, towards the end of September; there appears to
18 be three on consecutive days the third week of October; and
19 then the last, there appears to be -- strike that. There
20 appears to be two tardies during the week of January the 2nd
21 through the 6th; correct? Where I'm pointing to is where it
22 says Tuesday and F for Friday.

23 A. Okay.

24 Q. Are you with me? Sort of?

25 A. Um --

26 Q. Okay. I'm going to get away from you here and give you
27 a little space. Let me get to my copy so I could ask you
28 questions.

1 So as you see that document, does that help you
2 remember that maybe your daughter did have a bit of an
3 attendance problem or tardy problem? I apologize, that's the
4 wrong word.

5 A. If this is what the record has at school, then I abide
6 by it.

7 Q. All right. We'll assume for now the record is correct?

8 A. Yes.

9 Q. Okay. And you acknowledged at the preliminary
10 examination, where you testified to Mr. Schumb, who was then
11 representing Mr. Chandler, that the tardy problems were as a
12 result of you not being able to get her to school on time
13 rather than her not wanting to go; is that correct?

14 A. Yes.

15 Q. Okay. Did your daughter ever tell you -- in describing
16 the object in her mouth, did she ever describe that object as
17 curved?

18 A. I don't remember.

19 Q. Okay. All you remember is round; correct?

20 A. Yes.

21 Q. Okay. And as you spoke with your daughter about the
22 object in her mouth, she always described it as the same
23 object; correct?

24 A. Yes.

25 Q. She never described multiple objects?

26 A. No.

27 Q. Okay. A time did come, from the time that your daughter
28 told you about Mr. Chandler on the 9th of January, sometime

1 from that date forward, your daughter at some point was told
2 by you that Mr. Chandler did something bad; right?

3 A. Could you repeat that, please?

4 Q. I'll rephrase it. That wasn't a very good question.

5 Did you ever tell your daughter that what Mr.
6 Chandler did to you was bad?

7 A. No.

8 Q. You recall telling Mr. Schumb at the preliminary
9 examination that: I didn't talk with her about what Mr.
10 Chandler did was bad until she had come to court or had to
11 come to court?

12 A. No. I told her that we had to come to court -- I didn't
13 tell her that what Mr. Chandler did was bad when this -- when
14 the whole situation was happening.

15 Q. I'm going to read a response and let me know if this
16 helps you remember.

17 Quote, I didn't talk to her about what Mr. Chandler
18 did was bad until she had to come to court.

19 A. Yes.

20 Q. So at some point you did tell her that what he did was
21 bad? I don't mean that day. I meant the time for you was on
22 your way to court to testify at the preliminary examination
23 in this case.

24 A. I didn't point out Mr. Chandler. I remember --

25 Q. It's okay if you don't remember?

26 A. I don't remember exactly the words I said, yeah.

27 Q. All right. Just to be fair to you, no one's memory gets
28 better with time, does it?

1 A. No.

2 Q. Mine certainly doesn't. So sometimes we forget, and if
3 I ask you a question and you don't remember, there is no
4 reason to stress out about it. Just tell me you don't
5 remember. Okay?

6 A. Okay.

7 MR. MADDEN: I have no further questions. Thank
8 you.

9 THE COURT: Thank you, Mr. Madden.

10 Ms. Filo, any additional questions?

11 MS. FILO: Yes, Your Honor. Thank you.

12 FURTHER REDIRECT EXAMINATION

13 BY MS. FILO:

14 Q. Luisana, you had a lot of questions on cross-examination
15 and then now on recross, suggesting that you were the one who
16 created some fear in Isabell; that it was your hysteria, your
17 upset, your using a word like "bad," that you created the
18 fear in Isabell.

19 MR. MADDEN: Your Honor, I object to counsel's
20 statement as suggesting. I was asking a question --

21 THE COURT: Hold on. What's the objection?

22 MR. MADDEN: Pardon me?

23 THE COURT: What's your objection, your legal
24 objection?

25 MR. MADDEN: Misstates the evidence.

26 THE COURT: Okay. Well, I'm just going to sustain
27 the objection, not necessarily on that basis, but it was long
28 and compound. If you'd rephrase.

1 MS. FILO: Thank you.

2 BY MS. FILO:

3 Q. Luisana, I want to make sure I'm correct, you noticed
4 some changes in Isabell's behavior about going to school
5 prior to her telling you what was happening in Mr. Chandler's
6 courtroom [sic]; is that correct?

7 A. Yes.

8 Q. That day, when you looked down at your daughter, what
9 was the look in her eyes when she told you: Mommy, I need to
10 tell you something?

11 A. She was crying, she was scared. She knew she had to ask
12 me for help.

13 Q. She did not at any level say to you in a happy way:
14 Hey, mommy, we're playing a fun, fun game in Mr. Chandler's
15 classroom and I want to tell you about it?

16 A. No, never.

17 Q. The way she approached you was with fear?

18 A. Yes.

19 Q. Reluctance?

20 A. Oh, yes.

21 Q. Okay. You said at some point that she had tears in her
22 eyes?

23 A. She did.

24 Q. When did that start? When did you see these tears in
25 your little girl's eyes?

26 A. When she pulled me back. When we stepped out of the
27 door and she pulled me back to tell me that. When she said:
28 Mr. Chandler's doing stuff to me, that's when I seen the

1 tears.

2 Q. Did she tell you whether or not it was something that
3 she liked or didn't like?

4 A. She didn't. I didn't ask her that, but her way of
5 talking obviously is something that she does not like.

6 Q. Okay. There was no doubt in your mind that what she was
7 telling you, you perceived it as being something that she
8 felt was bad?

9 A. I perceived it like that.

10 Q. Thank you.

11 A. It was bad.

12 Q. Thank you.

13 THE COURT: Thank you.

14 MS. FILO: Nothing further.

15 THE COURT: Recross, Mr. Madden?

16 MR. MADDEN: No, Your Honor.

17 THE COURT: Okay. Ma'am, at this time, you may
18 step down. You are excused, subject to recall. At a later
19 time, Ms. Filo, if she hasn't already done it, she will
20 explain to you what that means. Otherwise, you are free to
21 leave. If you'd hand me that document, please.

22 THE WITNESS: Sure.

23 THE COURT: Thank you.

24 MS. FILO: At this time, the People call Isabell.
25 There is a second chair up there?

26 THE COURT: There is.

27 MS. FILO: Thank you.

28 ///

1 ISABELL DOE,

2 Being called as a witness on behalf of the People,
3 having been first duly sworn, was examined and testified as
4 follows:

5 MS. FILO: Your Honor, I'm going get the witness a
6 little closer, if that's all right?

7 THE COURT: That's fine. Thank you.

8 Ms. Filo, put it down some more.

9 MS. FILO: Sure.

10 THE COURT: Thank you.

11 MS. FILO: Is that good?

12 THE WITNESS: Yeah.

13 THE COURT: Okay.

14 MS. FILO: Your Honor, may I approach the witness
15 from here?

16 THE COURT: Of course you may.

17 MS. FILO: Thank you.

18 THE COURT: Is your name spelled I-s-a-b-e-l-l-a?

19 THE WITNESS: Um, no.

20 THE COURT: Oops. Well, is it Isabella? Is that
21 your name?

22 THE WITNESS: You could call me that if you want.

23 THE COURT: Thank you. Could you spell your name
24 for me?

25 THE WITNESS: I-s-a-b-e-l-l.

26 THE COURT: Okay. Thank you very much.

27 And, ma'am, your name? First name?

28 SUPPORT PERSON: Yes, Yesenia.

1 THE COURT: You understand, I'm sure Ms. Filo told
2 you, not to encourage or suggest any answers.

3 SUPPORT PERSON: Um-hum.

4 THE COURT: Okay. Ms. Filo talked to you about
5 what is going to happen today, so I will let her go over
6 that. Okay? She's going to ask you -- she's going to ask
7 you some questions. Now, as you're here answering the
8 questions, at any time if you want to break, let me know, or
9 simply tell Ms. Filo: Could I have a break, and I'll give
10 you a break to use the restroom or do whatever you need.
11 Okay? If you don't, that's fine. Okay?

12 THE WITNESS: Okay.

13 THE COURT: Ms. Filo.

14 MS. FILO: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MS. FILO:

17 Q. Okay. Isabell, I'm going to come stand right next to
18 you. Is that okay?

19 A. Yeah.

20 Q. All right. Okay.

21 Ms. Isabell, do you remember who I am?

22 A. Ms. Alison.

23 Q. Ms. Alison. What does Ms. Alison do?

24 A. Helps people.

25 Q. Okay. Isabell, I want to ask you some questions today,
26 and you and I have talked a little bit before about what the
27 rules are when we're in court; right?

28 A. Yes.

1 Q. Yeah. What did I tell you about what the rules are in
2 court?

3 A. Um, use real words, no talking over each other, and I
4 forgot the last one.

5 Q. The most -- single, most important rule -- what's the
6 single, most important rule?

7 A. I forgot.

8 Q. Okay. To tell the --

9 A. Truth.

10 Q. Right. Okay. So, Ms. Isabell, if I asked you is my
11 jacket red, what would you say?

12 A. No.

13 Q. Because my jacket is not red, is it?

14 A. (Shakes head side to side.)

15 Q. What color is my jacket?

16 A. Black.

17 Q. Okay. If I said that I have dark hair, would that be
18 the truth or would that be a lie?

19 A. Truth.

20 Q. Because I have dark hair?

21 A. (Shakes head up and down.)

22 Q. Yeah?

23 A. (Shakes head up and down.)

24 Q. What's the real word?

25 A. Um --

26 Q. Yes or no; right?

27 A. Yes.

28 Q. Okay. All right. So you are going to promise me that

1 you are only going to say the truth; right?

2 A. Yes.

3 Q. We're only going to talk about things that are real. Do
4 you know the difference between real and make-believe?

5 A. Yes.

6 Q. Yes. So if I started talking to you about fairies, am I
7 talking about something real or not real?

8 A. Not real.

9 Q. If I started to talk to you about what you had for lunch
10 today -- did you have lunch?

11 A. Yes.

12 Q. Would that be something real?

13 A. Yes.

14 Q. Okay. So could you promise me that we're only going to
15 talk about what's real and what's the truth?

16 A. Yes.

17 Q. All right. Good deal.

18 So, Ms. Isabell, how old are you right now?

19 A. Eight.

20 Q. Eight years old. Do you know when your birthday is?

21 A. November 11th.

22 Q. November 11th. So you're going to start what grade
23 coming up?

24 A. Fourth.

25 Q. Fourth grade. What do you learn in fourth grade?

26 A. Um, division, hard stuff.

27 Q. Hard stuff. I seem to remember that math was not your
28 favorite subject?

- 1 A. It sort of wasn't.
- 2 Q. Wasn't? But it's getting better?
- 3 A. Yeah.
- 4 Q. All right. So you learned division, and what other
- 5 kinds of stuff are you learning in school?
- 6 A. Times.
- 7 Q. Multiplication tables?
- 8 A. (Shakes head up and down.)
- 9 Q. What are you up to? What number?
- 10 A. I don't remember.
- 11 Q. Okay. So you're in fourth grade now. Who was your
- 12 teacher when you were in third grade?
- 13 A. Ms. Tanner.
- 14 Q. Ms. Tanner. Did you like Ms. Tanner?
- 15 A. Um-hum.
- 16 Q. Yeah?
- 17 A. Yeah.
- 18 Q. What school -- where did Ms. Tanner teach? What school
- 19 was that?
- 20 A. Forbes Elementary.
- 21 Q. Forbes? And then what about for second grade? Who was
- 22 your teacher in second grade?
- 23 A. Mr. Chandler.
- 24 Q. Okay. And what school was that at?
- 25 A. O.B. Whaley.
- 26 Q. Okay. And was O.B. Whaley close to your house?
- 27 A. Yes.
- 28 Q. Where you used to live?

- 1 A. Yes.
- 2 Q. Yeah. Who lived in that house with you?
- 3 A. Me, my mom, and my two brothers and my sister.
- 4 Q. Okay. So your whole family lived there, yeah?
- 5 A. Yeah.
- 6 Q. Okay. And you have an older brother?
- 7 A. Yes.
- 8 Q. What is your older brother's name?
- 9 A. Anthony.
- 10 Q. Did Anthony go to O.B. Whaley too?
- 11 A. Yes.
- 12 Q. What grade was Anthony in? Is he one grade ahead of you
- 13 or two grades ahead of you?
- 14 A. One grade ahead of me.
- 15 Q. Okay. So when you were going to O.B. Whaley school, how
- 16 did you get to school every day?
- 17 A. I walked.
- 18 Q. Who did you walk with?
- 19 A. With my older brother.
- 20 Q. Did you walk with anybody else?
- 21 A. No.
- 22 Q. Did your mom go with you to school sometimes?
- 23 A. Yes.
- 24 Q. Okay. How many times would your mom go with you? Like,
- 25 a lot or a little?
- 26 A. A little.
- 27 Q. A little. Was your house pretty close to O.B. Whaley or
- 28 was it way far away?

- 1 A. Pretty close.
- 2 Q. Pretty close. Okay. So you and your brother would walk
3 to school and your mom went with you sometimes?
- 4 A. Yes.
- 5 Q. Okay. And you said you were in Mr. Chandler's
6 classroom; right?
- 7 A. Yes.
- 8 Q. Do you know what classroom that was?
- 9 A. Um, I don't remember.
- 10 Q. Okay. Do you know -- you were in second grade; right?
- 11 A. Yes.
- 12 Q. Were there just second-graders in that class with Mr.
13 Chandler?
- 14 A. Second- and third-graders.
- 15 Q. Okay. So was it a combo class they called it?
16 Combination class where they have both second and third
17 grade?
- 18 A. I don't know.
- 19 Q. But they had third-graders in there too?
- 20 A. (Shakes head up and down.)
- 21 Q. Yeah?
- 22 A. Yes.
- 23 Q. Okay. So, Isabell, I want to ask you about being in Mr.
24 Chandler's class. Okay?
- 25 A. Okay.
- 26 Q. Could you tell me about some things that you did in Mr.
27 Chandler's class that were really fun?
- 28 A. I really can't remember.

1 Q. Okay. Can you remember anything that happened in Mr.
2 Chandler's class that you didn't like?

3 A. Yes.

4 Q. What do you remember that you didn't like happening in
5 Mr. Chandler's class?

6 A. He always keep me in at recess.

7 Q. Okay. So when you went to school at O.B. Whaley and you
8 were in Mr. Chandler's class, do you remember what time you
9 had to be at school in the morning?

10 A. No.

11 Q. Did you have a recess in the morning before lunchtime?

12 A. Yes.

13 Q. And then you had lunch recess?

14 A. Yes.

15 Q. Did you have an afternoon recess?

16 A. No.

17 Q. And then so you went from lunch until you got out of
18 school? No recess?

19 A. Yes.

20 Q. Okay. So the only recess you had was in the morning; is
21 that right?

22 A. Well, I didn't have morning either.

23 Q. You didn't have morning either. Why not?

24 A. Sometimes.

25 Q. Okay. But there was a scheduled one?

26 A. Yeah.

27 Q. Okay. So there was a scheduled recess in the morning
28 and then there was a lunch break; is that right?

1 A. Yes.

2 Q. Okay. So you said that Mr. Chandler wouldn't let you go
3 to recess?

4 A. Well, I don't know if he won't let me or let me go.

5 Q. Okay. So when you said that something happened that you
6 didn't like in Mr. Chandler's classroom, tell me what you
7 said again?

8 A. He always keep me in at recess.

9 Q. Okay. What happened when he kept you in at recess?

10 A. He put me in a chair and put a blindfold on me.

11 Q. Okay.

12 MR. MADDEN: Your Honor, I apologize. I can't
13 hear.

14 THE COURT: Okay. I'm going to suggest --

15 MR. MADDEN: I think one of the problems is the
16 child's looking at Ms. Filo and away from the microphone.

17 MS. FILO: Here, why don't I turn it a little. I
18 could try -- I will scoot you over a little bit. Let's
19 try that. Is that going to be better? Maybe?

20 THE COURT: Could -- I'm going to ask my reporter
21 to read back the last answer. I believe it was: He put me
22 in a chair -- if I could get it completely.

23 (Whereupon, the record was read.)

24 BY MS. FILO:

25 Q. Isabell, do you know how many times that happened?

26 A. I can't remember.

27 Q. Was it more than one time?

28 A. Yes.

1 Q. You said he would put you in a chair. Do you know what
2 kind of chair you mean?

3 A. I don't know what it's called, but --

4 Q. So in Mr. Chandler's classroom, were there chairs for
5 the children to sit in?

6 A. Yes.

7 Q. And then -- do you see Ms. Jamie's chair down there?
8 See how it has rollers on it?

9 A. Yes.

10 Q. Did Mr. Chandler have a chair that had rollers on it?

11 A. Yes.

12 Q. Did you sit in the chair with rollers?

13 A. Yes.

14 Q. Okay. And you said that he blindfolded you?

15 A. Yes.

16 Q. What did he use to blindfold you? Do you know?

17 A. Well, he had this blindfold and he put it on me, or if
18 not. Sometimes I bring my scarf and he put it on me.

19 Q. Sometimes you would wear scarves to school?

20 A. (Shakes head up and down.)

21 Q. I think I see a picture with you and a scarf. You like
22 scarves, yeah?

23 A. Yeah.

24 Q. Sometimes he put the scarf on you?

25 A. Yeah, like on my eyes.

26 Q. Covering your eyes?

27 A. Yes.

28 Q. And then you said that sometimes it was a blindfold,

1 yeah?

2 A. Yes.

3 Q. What kind of blindfold? Do you know?

4 A. No.

5 Q. Do you know what color it was?

6 A. I think it was blue.

7 Q. Okay. Where did the blindfold come from? Do you know?

8 A. No.

9 Q. Never saw where it came from within the classroom?

10 A. No.

11 Q. Okay. How did the blindfold stay on? Did you have to
12 tie it or did it just stay on?

13 A. It just stayed on.

14 Q. Was it elastic? Do you know what elastic is?

15 A. Yeah.

16 Q. Like swim goggles, kind of --

17 A. Yes.

18 Q. It was like that?

19 A. Yes.

20 Q. So were you in the classroom with Mr. Chandler by
21 yourself?

22 A. Yes.

23 Q. And what happened? When you were sitting in the chair
24 and you had the blindfold on, what happened next?

25 A. He put his hand behind me and started, like, pushing it
26 back and forth.

27 Q. Okay. You said that he would push your head. What was
28 he pushing your head -- do you know what he was pushing your

1 head for?

2 A. No.

3 Q. No. Okay. Did he have you touch anything when you had
4 the blindfold on?

5 A. No.

6 Q. Did he do anything else while you had the blindfold on?

7 A. Well, he put something in my mouth.

8 Q. Okay. Could you talk to me about what he put in your
9 mouth? What did he put in your mouth?

10 A. I don't know.

11 Q. Okay. Could you describe it for me?

12 A. It was, like, curvy.

13 Q. Curvy? Okay. And do you know -- do you know how big it
14 was?

15 A. No.

16 Q. Okay. Was it -- could you tell me anything else about
17 it?

18 A. I don't remember.

19 Q. Okay. Isabell, this curvy thing, was it something you
20 could put all the way in your mouth? Like, if I had a little
21 M&M, right, I could put the whole M&M in my mouth and I could
22 close my mouth; right?

23 A. Yes.

24 Q. You could do that too; right?

25 A. Yeah.

26 Q. I bet you put lots of M&Ms in your mouth sometimes?

27 A. Yes.

28 Q. Okay. Was this something you could put in your whole

1 mouth?

2 A. No.

3 Q. No. Why not?

4 A. It was big.

5 Q. Okay. So did -- because your mouth is kind of round;
6 right?

7 A. Yes.

8 Q. How much of your mouth did it take up?

9 A. Almost the whole thing.

10 Q. Okay. And was it -- you said it was curvy?

11 A. Yes.

12 Q. Curvy?

13 A. Yes.

14 Q. And you said you couldn't put your mouth all the way
15 around it; right? You couldn't close your teeth on it?

16 A. No.

17 Q. No. Because it was too big?

18 A. Yes.

19 Q. Do you know how big it was?

20 A. No.

21 Q. Because you don't know where the end of it was?

22 A. No.

23 Q. Okay. Did it smell like anything?

24 A. Um, I don't know.

25 Q. Okay. Did it taste like anything?

26 A. No.

27 Q. Okay. Did you -- did he say anything to you while this
28 thing was in your mouth?

1 A. No.

2 Q. No. What were you supposed to do with the thing in your
3 mouth? Anything?

4 A. No.

5 Q. How long was the thing in your mouth?

6 A. I don't know.

7 Q. Okay. But you said that he pushed your head?

8 A. Yeah.

9 Q. Did he push your head while the thing was in your mouth?

10 A. Yeah.

11 Q. Okay. Can you show me what you mean when you say he
12 pushed your head? What does that mean?

13 A. Like, he was going like this.

14 Q. Okay. So you took your flat hand; right?

15 A. Yeah.

16 Q. And you put it on the back of your hand -- head?

17 A. Yes.

18 Q. And you were pushing your head forward; is that right?

19 A. He was doing it.

20 Q. He was pushing your head. You are just demonstrating
21 what he was doing?

22 A. Yes.

23 Q. Okay. And he was doing that while the thing was in your
24 mouth?

25 A. Yes.

26 Q. Okay. You said that this happened more than one time;
27 right?

28 A. Yes.

1 Q. Was it always the same or was it ever different?

2 A. Always the same.

3 Q. Okay. Always the same thing in your mouth?

4 A. Sometimes it will be candy.

5 Q. Okay. So sometimes he used candy?

6 A. Yes.

7 Q. Did he always use this curved thing and just sometimes
8 added candy, or was it sometimes just candy?

9 A. Sometimes just candy.

10 Q. Okay. What happened when -- what happened -- how did it
11 end? When the curvy thing was in your mouth, how did it end?

12 A. Well, he told me: Hold on, and then he go behind his
13 desk. Then I heard like a zipper, and then, um, he said:
14 Okay. You could go now, and then I left.

15 Q. Okay. And where would you go?

16 A. Sometimes I still would be in school, so I just go
17 outside to recess.

18 Q. Okay. So, Isabell, after -- do you remember -- did your
19 family celebrate Christmas?

20 A. I don't remember.

21 Q. Okay. Do you get a Christmas tree and things like that
22 at your house?

23 A. Yeah.

24 Q. Yeah. Did you celebrate Christmas the year you were in
25 Mr. Chandler's class?

26 A. I don't remember.

27 Q. Okay. But you have a school break right around the
28 holiday, yes?

1 A. Yes.

2 Q. Okay. Do you remember coming back to Mr. Chandler's
3 classroom after your Christmas break?

4 A. Um, I don't know.

5 Q. Okay. Do you remember telling your mom what Mr.
6 Chandler -- that Mr. Chandler was doing this in his
7 classroom?

8 A. Yes.

9 Q. Yeah? Why did you tell your mom?

10 A. Because I didn't like it, and then he kept on doing it
11 and then I never got recess.

12 Q. Okay. Are you okay? Want some water? Yes? Okay.
13 Here's some water. Are you okay?

14 A. (Shakes head up and down.)

15 Q. Yeah?

16 A. (Shakes head up and down.)

17 Q. Okay. So you decided to tell your mom that day because
18 you didn't like it?

19 A. Yes.

20 Q. Okay. When you talked to your mom, did you -- what did
21 you -- do you remember what you told her?

22 A. I don't remember.

23 Q. Okay. When you were in Mr. Chandler's classroom and he
24 had this blindfold on you and he was putting something in
25 your mouth, what did it feel like? What were you thinking?

26 A. Nothing.

27 Q. Nothing. Did you like it?

28 A. No.

1 Q. No. Why didn't you just tell him: Hey, I don't like
2 this. I don't want to do this anymore?

3 A. Because I was scared.

4 Q. What were you scared of?

5 A. Because I thought that he was still going to do it to me
6 either way.

7 Q. Okay.

8 MR. MADDEN: I'm sorry, Your Honor. I didn't hear
9 that.

10 THE COURT: I believe she said: I thought he would
11 do it to me either way -- anyway.

12 BY MS. FILO:

13 Q. So you didn't think you could tell Mr. Chandler to stop?

14 A. Yeah.

15 Q. That day, when you told your mom, do you know what made
16 you tell her that day?

17 A. Um, I don't know.

18 Q. Okay. But you finally got brave enough to say what
19 happened?

20 A. Yes.

21 Q. Okay. So, Isabell, this may be kind of a hard question.
22 But when you told your mom, how soon before that had Mr.
23 Chandler done this thing to you? Does that make sense?
24 Like, if you told your mom on a Monday, how long ago had Mr.
25 Chandler done this thing?

26 MR. MADDEN: Objection, Your Honor. Compound
27 question.

28 THE COURT: Overruled. You may answer the

1 question. You could answer the question, if you understand
2 it.

3 THE WITNESS: I don't understand.

4 THE COURT: Okay.

5 BY MS. FILO:

6 Q. Okay. You said that it happened more than one time;
7 right?

8 A. Yeah.

9 Q. Do you know how often it was happening? Like, could you
10 give me your kind of best -- do you know what an estimate is?

11 A. Yes.

12 Q. Your best estimate? Like, once a day? Once a week?
13 Once a month? Just once during the school? Could you give
14 me any estimate of how many times it happened?

15 A. Um, once a week.

16 Q. Okay.

17 MR. MADDEN: I'm sorry. The answer was?

18 THE COURT: Once a week.

19 BY MS. FILO:

20 Q. Isabell, you have had to come to court once before;
21 right?

22 A. Yes.

23 Q. And you had to talk to some police officers?

24 A. Yes.

25 Q. Yeah? You remember talking to Det. Sean over there?

26 A. Yes.

27 Q. Back when he didn't have all of that crazy hair?

28 A. Yes.

1 Q. Yes. So, Ms. Isabell, has this been any fun for you?

2 A. No.

3 Q. No. It's not fun to come to court, is it?

4 A. No.

5 Q. No. Okay. Ms. Isabell, I think that may be all the
6 questions I have for you, but I want to go back and check my
7 notes for just a minute. Okay?

8 A. Okay.

9 Q. Okay. Thank you very much.

10 Ms. Isabell, you said that -- you said that when
11 the thing was in your mouth, you don't remember Mr. Chandler
12 saying anything to you?

13 A. No.

14 Q. Do you remember telling the police officer that he --
15 that Mr. Chandler would tell you to move your tongue around?

16 A. Yes.

17 Q. Okay. So do you know right now as you sit here which
18 one it is? Did he tell you to move your tongue around or
19 not?

20 A. He told me to move my tongue around.

21 Q. Okay. Did he say anything else you can remember?

22 A. No.

23 Q. Okay. You also said that sometimes he would -- he would
24 give you candy?

25 A. Yeah.

26 Q. Did he ever give you candy after he was done putting
27 this curve thing in your mouth?

28 A. Yes.

1 MR. MADDEN: Objection. Misstates the evidence.
2 She said "curvy."

3 THE COURT: I'm going to overrule the objection,
4 allow the answer to remain. If you would clarify that, Ms.
5 Filo.

6 MS. FILO: Sure.

7 BY MS. FILO:

8 Q. You said that he sometimes would give you a candy;
9 right?

10 A. Yeah.

11 Q. Did he give you the candy after he was done with the
12 curved thing -- curvy thing?

13 A. Sometimes.

14 Q. Okay. Did he ever say anything to you about talking to
15 other people about what was happening in the classroom?

16 A. No.

17 Q. Isabell, do you know whether the door to the classroom
18 was open or closed?

19 A. It was closed.

20 Q. Did you talk to your friends like on the playground
21 about what was happening in Mr. Chandler's room?

22 A. No.

23 Q. How come?

24 A. Because then they will be asking me why, why, why, and
25 then I get annoyed.

26 Q. You get annoyed. Okay. So you didn't talk to your
27 friends on the playground or any place else about what was
28 happening in Mr. Chandler's room?

1 A. No.

2 Q. Okay. Isabell, do you know who Becky is?

3 A. I don't remember.

4 Q. Okay. Do you know Laurie?

5 A. No.

6 Q. How about -- these are all people from your school, from
7 O.B. Whaley, your old school, O.B. Whaley. Do you remember
8 someone named Wendy?

9 A. No.

10 Q. How about Arleth?

11 A. No.

12 Q. No. Were those girls anybody that you talked to about
13 what was happening in Mr. Chandler's room?

14 A. No.

15 Q. No. So you told your mom?

16 A. Yes.

17 Q. And you told Det. Sean?

18 A. Yes.

19 Q. And you told me when we came to court?

20 A. Yes.

21 Q. Is that it?

22 A. Yes.

23 Q. Okay. Thank you very much, Isabell. I think that's all
24 the questions I have. Okay?

25 A. Okay.

26 THE COURT: Thank you, Ms. Filo.

27 Isabell, Mr. Madden, who is sitting over there, is
28 going to ask you some questions. Are you okay? Do you need

1 a break? The gentleman that's sitting there with the
2 glasses.

3 MR. MADDEN: Looks like she might need a break,
4 Your Honor.

5 THE COURT: Do you need a break, or do you want to
6 hear his questions first?

7 THE WITNESS: Well, whichever.

8 THE COURT: How are you doing?

9 THE WITNESS: Good.

10 THE COURT: Okay. So are you okay about him asking
11 you questions right now?

12 THE WITNESS: Yes.

13 THE COURT: Okay. Now, if you get tired and you
14 need a break, you need to let me know. Okay?

15 THE WITNESS: Okay.

16 THE COURT: Promise?

17 THE WITNESS: Yes.

18 THE COURT: Okay.

19 Cross-examination, Mr. Madden?

20 MR. MADDEN: Thank you, Your Honor.

21 Your Honor, before I start asking questions, this
22 will be the time for me to request that the 13 photographs on
23 the white board I'm putting against the bench, I would like
24 marked Defense A-1 through A-13, in the order that they face
25 madam clerk. Make sense?

26 THE COURT: Okay. Mr. Madden, all 13 photographs
27 are on one board?

28 MR. MADDEN: 13 separate boards.

1 THE COURT: Okay. Got you.

2 MR. MADDEN: But they are all of the same subject.

3 THE COURT: Then they will be marked A-1 through
4 13. Thank you.

5 (Whereupon, Defense Exhibits A-1 through A-13 were
6 marked for identification.)

7 MR. MADDEN: I will let madam clerk work on that.

8 CROSS-EXAMINATION

9 BY MR. MADDEN:

10 Q. And, Isabell, I will start asking you some questions.
11 So my name is Brian Madden, and I'm Mr. Chandler's lawyer and
12 I'm going to ask you some questions. Okay?

13 A. Okay.

14 Q. All right. If I ask a question that you don't
15 understand, tell me that you don't understand it and I will
16 try to ask the question in a way that you do understand it?

17 A. Okay.

18 Q. I don't want you to be shy about interrupting me if you
19 don't understand the question. Okay?

20 A. Okay.

21 Q. All right. You've done a good job so far, and I want to
22 tell you that if I ask you a question and you don't know the
23 answer, or you don't remember the answer, it's okay to tell
24 me that you don't know or that you don't remember. Okay?

25 A. Okay.

26 Q. All right. But if I ask you a question and you do
27 remember, I want you to tell me what you remember. Okay?

28 A. Okay.

1 Q. All right. I'm going to move over here a little bit to
2 my left. I'm going to talk to you from -- you know what this
3 thing is called?

4 A. No.

5 Q. It's called a podium. So let me ask you some questions
6 about your -- a year that you were at O.B. Whaley in Mr.
7 Chandler's class. Okay?

8 A. Okay.

9 Q. And you were in the second grade for that year; right?

10 A. Yes.

11 Q. Okay. Those answers are perfect. And you are speaking
12 nice and loud. I appreciate that. I don't hear so well
13 because you could tell that I'm old, so it probably isn't
14 your voice. Sometimes it's just my ears. I'm asking you to
15 speak up, I'm not trying to be rude to you. Okay?

16 A. Okay.

17 Q. All right. Now -- so you remember that most of the time
18 you went to school with your brother --

19 A. Yes.

20 Q. -- right? All right. Now, you were late sometimes?

21 A. Yes.

22 Q. And when you were late, how did that work? What did you
23 have to do?

24 A. I sometimes have to do worksheets.

25 Q. I'm sorry, that's a good answer. It wasn't a good
26 question.

27 When you got to school and if you were late, did
28 the school make you go to the office, or how did that work if

1 you were tardy?

2 A. I would have to go to the office.

3 Q. Okay. And then get a piece of paper that you would take
4 back to Mr. Chandler's class; right?

5 A. Yes.

6 Q. And then you were supposed to take that paper home to
7 your mother that night; right?

8 A. I don't know.

9 Q. Okay. Fair enough.

10 Now, did the second-graders sit on one side of the
11 classroom and the third-graders on the other?

12 A. Yes.

13 Q. You remember that?

14 A. Yes.

15 Q. All right. And were the desks sort of formed in kind of
16 a square? Like, four different squares for four groups of
17 children?

18 A. I don't remember.

19 Q. Okay. Do you remember there being like a projector in
20 the middle of the class that went towards the white boards in
21 front of the class that had a pull-down screen, like the one
22 here in the courtroom?

23 A. Yes.

24 Q. Okay. And so if you were to -- imagine that I was
25 standing in -- you remember what room number it was, the
26 classroom of Mr. Chandler?

27 A. No.

28 Q. Do you remember the No. 18? It's okay if you don't?

1 A. No.

2 Q. All right. I will tell you it was 18.

3 Now -- so if I'm in the back of the class, would
4 you be on the left side of the class facing the front board
5 or the right side of the class?

6 A. Left.

7 Q. All right. That's where the second-graders were; right?

8 A. Yes.

9 Q. All right. So then on the right-hand side were two
10 groups of third-graders; right?

11 A. Yes.

12 Q. All right. Now, there were actually four groups of kids
13 and they had animal names; right?

14 A. Yes.

15 Q. Could you remember what they are?

16 A. Zebra, lion -- I forgot the other two.

17 Q. Tiger, gorilla?

18 A. Yeah.

19 Q. Okay. Do you remember what group you were in?

20 A. Zebra.

21 Q. All right. And do you know how many other kids were in
22 the zebra group, if you remember?

23 A. I don't remember.

24 Q. Okay. Do you remember the names of any of the kids in
25 your zebra group?

26 A. No.

27 Q. Okay. Now, did each group get points for doing certain
28 things?

- 1 A. Yes.
- 2 Q. What kinds of things would you get points for?
- 3 A. For winning, like, group --
- 4 Q. Putting my finger next to my ear. I can't hear you.
- 5 Could you speak a little louder?
- 6 A. Yes. I don't remember what for.
- 7 Q. Okay. And then did the group that got the most points
- 8 get some privileges, or did they get to do things that the
- 9 other kids didn't get to do?
- 10 A. We will get something from the treasure box.
- 11 Q. The treasure box. All right. So the treasure box was a
- 12 place where candy and treats were stored; right?
- 13 A. Yes.
- 14 Q. You must have gotten something from the treasure box?
- 15 A. Yes.
- 16 Q. All right. But the points were given to the student in
- 17 the group for doing good things; right?
- 18 A. Yes.
- 19 Q. Now, if your group, for example, the zebra group, they
- 20 would get points for being on time for school; right?
- 21 A. I don't remember.
- 22 Q. They would get points for turning their homework in?
- 23 A. Yeah.
- 24 Q. They would get points for volunteering?
- 25 A. I don't remember.
- 26 Q. Now, did the group with the most points also get to pick
- 27 the toys that they were going to use every day at recess
- 28 first? They would get the first choice?

1 A. Yes.

2 Q. All right. So the group that had the most points got to
3 line up first and go to recess; right?

4 A. I don't know.

5 Q. Okay. But good things happened to the people that got
6 points; right?

7 A. Yes.

8 Q. All right. Now, if somebody was late to school or tardy
9 or didn't do their homework, that means that the whole group,
10 for example, the zebra group, wouldn't get any points that
11 day; right?

12 A. I don't know.

13 Q. Does that sound like it's something that maybe happened?

14 A. I think.

15 Q. All right. So when you were late for school or didn't
16 turn your homework in, was there any consequence for not
17 being on time or for not turning in your homework?

18 A. I don't remember.

19 Q. Do you remember that children were required at recess --
20 children who didn't turn their homework in or who were late
21 for school, that they had to sit some special place outside
22 during recess?

23 A. Yes.

24 Q. That was called what?

25 A. I don't know.

26 Q. The wall?

27 A. I don't know.

28 Q. Okay. But they had to stay in a place and sit by

1 themselves during recess; right?

2 A. Yes.

3 Q. All right. And that didn't feel very good, did it?

4 A. No.

5 Q. You had to do that sometimes, didn't you?

6 A. No.

7 Q. Never did?

8 A. No.

9 Q. All right.

10 MR. MADDEN: I think those photographs are ready.
11 Your Honor, I'm trying to figure out a way to do this. I
12 guess I could use the easel.

13 THE COURT: With the photos? Yes.

14 MR. MADDEN: Your Honor, you have a suggestion for
15 a position where all of the jurors and the Court and the
16 witness could see this?

17 THE COURT: I'm not concerned with me, Mr. Madden,
18 but we have to set it in such a place --

19 MR. MADDEN: I'm thinking in the corner. If
20 everyone -- I have to lean forward a little bit. Something
21 you could all see if you had to? All right.

22 BY MR. MADDEN:

23 Q. Could you see what I'm touching here?

24 A. Yes.

25 Q. Okay.

26 MR. MADDEN: High-tech, Your Honor.

27 BY MR. MADDEN:

28 Q. All right. So I'm going to put these photographs up,

1 starting with this first one, this is Defense A-1. You don't
2 need to worry about the numbers.

3 THE COURT: I don't think we have a pointer, Mr.
4 Madden.

5 MR. MADDEN: That's all right. Okay.

6 THE COURT: Actually, we do.

7 BY MR. MADDEN:

8 Q. So I'm going to ask you some questions about this
9 photograph. Okay?

10 A. Okay.

11 Q. All right. Could you tell me what part -- I'm going to
12 tell you all of these photographs are of Room 18 and were
13 taken during the year that you were in Mr. Chandler's class.
14 Okay?

15 A. Okay.

16 Q. I'm not trying to trick you. All right?

17 A. Okay.

18 Q. Could you tell me what this first photograph shows?
19 What part of the classroom does it show?

20 A. Behind.

21 Q. The back?

22 A. Yes.

23 Q. Okay. So over here in the right corner it looks kind of
24 light. That is where the door comes into the class; right?

25 A. Yes.

26 Q. So the entrance is actually in -- the front door to that
27 class opens?

28 A. Yes.

1 Q. Where that light is; right? It will be sort of in this
2 area?

3 A. Yes.

4 Q. Thank you.

5 And this would be the back wall, and looks like
6 there appears to be books here and cabinets and mailboxes and
7 I will bet that's Mr. Chandler's desk that I just pointed to?

8 A. Yes.

9 Q. Okay. And the door that is across this photograph,
10 where does that go?

11 A. To the other classes.

12 Q. All right. Well, not to the other classes, but to
13 another class; right?

14 A. Yes.

15 Q. There is another classroom right on the other side of
16 that door; right?

17 A. Yes.

18 Q. Did you ever see a teacher go from Mr. Chandler's class
19 into that other class?

20 A. No.

21 Q. Did you ever see a teacher go from the other class into
22 Mr. Chandler's class?

23 A. Yes.

24 Q. Who did you see do that?

25 A. My brother's teacher.

26 Q. What is her name?

27 A. I don't remember.

28 Q. I'm going to try a name. I might have the pronunciation

1 wrong, but is it Ms. Catangay or Cabinay (phonetic)?

2 A. Ms. Catangay.

3 Q. That's much better. All right. Thank you for the help.

4 And then this looks like -- in this picture, it
5 looks like the student's desk to me is like corner or half of
6 one; right?

7 A. Yes.

8 Q. And this probably is one of the desks in the zebra
9 group; right?

10 A. Yes.

11 Q. So your group was towards the back of the class to the
12 left?

13 A. Yes.

14 Q. Okay. All right. How often did you see -- pronounce
15 her name for me again?

16 A. Catangay.

17 Q. Catangay. How many times you think you saw her come
18 through that door?

19 A. Probably, like, two times.

20 Q. Okay. Do you know if that door was locked?

21 A. I don't know.

22 Q. Okay. So let me show you A-2. This pretty much shows
23 the same corner of the classroom, but a little different
24 angle; right?

25 A. Yes.

26 Q. In fact, now we could see another student's desk, which
27 is probably part of another group, one of the third-graders;
28 right?

1 A. Yes.

2 Q. All right. And I see a sign hear saying "Group prizes
3 at the end of the year." Is the group one of the animals?

4 A. Yes.

5 Q. All right. So whoever gets the most points is going to
6 get prizes; right, the best prizes?

7 A. Yeah.

8 Q. So the idea is everybody in the group get as many points
9 as you can; right?

10 A. Yes.

11 Q. All right. Let's move along to A-3, and this photograph
12 again shows mostly Mr. Chandler's desk and a carpeted area
13 and that appears to be Mr. Chandler's chair?

14 A. Yes.

15 Q. Was there another place in the room that had another
16 chair that looked like that?

17 A. I don't remember.

18 Q. Do you remember kind of a horseshoe-type table where
19 students would come over and Mr. Chandler would sit in the
20 inside of that?

21 A. Yes.

22 Q. You remember that now?

23 A. Yes.

24 Q. There was probably -- I bet there was another chair like
25 this in that area; right?

26 A. I think it was like that.

27 Q. You're not sure?

28 A. Yeah, I'm not sure.

1 Q. Fair enough.

2 This picture is kind of hard to look at because
3 it's blurry, so don't look at it too long. That shows the
4 door open and you could see the next classroom right on the
5 other side; right?

6 A. Yes.

7 Q. In fact, there was a teacher's desk right on the other
8 side; right?

9 A. Yes.

10 Q. Okay. Can't see in that picture, though, can you?

11 A. I can.

12 Q. You can? I'm not seeing it right. Want to go point to
13 it for me?

14 A. What?

15 Q. You said there is -- I think you think I meant this
16 desk; right?

17 A. Oh.

18 Q. I meant the other teacher's desk. You can't see that in
19 this photograph, can you?

20 A. No.

21 Q. But it's basically on the other side of that wall;
22 right?

23 A. Yeah.

24 Q. You looked in that room before; right?

25 A. Yeah.

26 Q. Sure. This photograph is A-5, and this one mainly shows
27 kind of like a cabinet; right?

28 A. Yes.

1 Q. Now, is this where Mr. Chandler kept his school
2 supplies, or do you know?

3 A. I don't know.

4 Q. Okay. Did you ever see that cabinet open? I'm going to
5 show you now on the easel A-6. Did you ever see that --
6 during the time that you were in Mr. Chandler's class, do you
7 remember ever seeing that cabinet open like that?

8 A. I can't remember.

9 Q. Okay. Maybe you did, maybe you didn't; right?

10 A. Yes.

11 Q. Okay. I will put up A-7. We could see the same
12 cabinet. Now we could see over to the right corner the room.
13 We could see the light over there. The door in that class is
14 open in that picture, huh?

15 A. Yes.

16 Q. How could you tell?

17 A. Because there is light.

18 Q. Exactly. Then there -- what were these books about? Do
19 you know?

20 A. I can't remember.

21 Q. Okay. You know -- do you remember anything about this
22 black pot?

23 A. No.

24 Q. Okay. What about this red -- looks like a red plastic
25 tub, do you remember what that was for?

26 A. It kept our balls in there for recess.

27 Q. Your voice is dropping down a little bit. You are doing
28 really good. Probably running out of gas a little bit here.

1 I think pretty soon you are going to raise your hand and want
2 a recess; right? Let us know.

3 A. (Shakes head up and down.)

4 Q. So is that where -- by balls, I mean there were lots of
5 different balls that Mr. Chandler had for the kids; right?

6 A. Yes.

7 Q. Those balls were used when you went to recess?

8 A. Yes.

9 Q. Other things in there too? Jump ropes and things like
10 that?

11 A. Yes.

12 Q. And when we talked before about lining up for recess,
13 the group with the most points got to have the first choice
14 of what toys they wanted to use for recess; right?

15 A. I think.

16 Q. Okay. I'm going to ask you about -- I've got six more
17 photographs, then I'm going to ask if you want to recess.

18 All right? Okay?

19 A. Okay.

20 Q. This gets us to A-8. Now we could see the front door;
21 right?

22 A. Yes.

23 Q. It's actually in the back of the class, but there is
24 only one door to go outside; right?

25 A. Yes.

26 Q. All right. And then this area here with all of the
27 hooks, I'm going to guess is the area where the kids --
28 what's it called? Put their coats or jackets?

1 A. Yes.

2 Q. All right. What about this thing on the wall here? It
3 looks like a bunch of cards. Do you know what those are for?

4 A. If you get like a red card.

5 Q. Okay. Then this also -- this photograph also shows the
6 zebra group; right?

7 A. Yes.

8 Q. Okay. You were in the zebra group; right?

9 A. Yes.

10 Q. So I'm seeing on this -- I see the name on a red card
11 Wilmer, I see on the red card a name Marcus, and I see on a
12 red card the name Natalie. Are those people who were in your
13 zebra group?

14 A. Yes.

15 Q. Okay. It gets us to A-9. Remember, we just talked
16 about Wilmer and Marcus and Natalie?

17 A. Yes.

18 Q. Now we could see even more people in the zebra group;
19 right?

20 A. Yes.

21 Q. We're getting to somebody who I think you know. That
22 would be you; right?

23 A. Yes.

24 Q. Your desk would be right where I'm pointing, with kind
25 of the rainbow marker; right?

26 A. Yes.

27 Q. On it is the word "Isabell"?

28 A. Yes.

1 Q. All right. Okay. Then over to the -- as we look at
2 this photograph, to the left of the photograph would be the
3 sidewall of the -- left sidewall of the classroom, and on
4 there is where the computers were; right?

5 A. Right.

6 Q. Okay. Then can't quite see it here, but beyond there
7 was an area where the sink was; right?

8 A. Right.

9 Q. Okay. You are getting an A so far.

10 Now, let's look at A-10. All right? So A-10
11 actually shows the left-hand corner of the classroom with the
12 sink, looks like some plastic bottles and cups. That's the
13 area we were talking about, the sink area?

14 A. Yes.

15 Q. Okay. Now, this group is not -- this is -- these are
16 second-graders; right?

17 A. Yes.

18 Q. But they aren't in your group?

19 A. No.

20 Q. All right. That would be Alfredo, Diego, Jayden, and
21 another name I can't see; is that right?

22 A. Right.

23 Q. Those were all second-graders?

24 A. Yes.

25 Q. Okay. Now, do you know what -- these letters that say
26 AR Tree, do you know what that means?

27 A. No.

28 Q. Was that like an advanced reading tree, where if you

1 read extra books you would get credit and you get points?

2 A. I don't know.

3 Q. Okay. You don't remember that?

4 A. (Shakes head side to side.)

5 Q. Okay. Now, by the way, in this photograph you could
6 only see part of an animal and some numbers below it. It
7 looks like a zebra to me; is that right?

8 A. Yes.

9 Q. That will be your group; right?

10 A. (Shakes head up and down.)

11 Q. Then on the next photograph, A-11, I think we could see
12 one more animal. Now I think we could say what the animal
13 name was for the group in front of you on the left side, the
14 other second grade group, what is that?

15 A. Tiger.

16 Q. A tiger. All right. The name of the second grade group
17 was tiger in the front and zebra in the back?

18 A. Yes.

19 Q. All right.

20 Now, if we look at -- I'm going to let you look at
21 this one because it's kind of far away. I'm going to let you
22 look at it first before we show it to everyone else. We see
23 the tiger, the zebra, and I don't quite see what this is?

24 A. Lyon.

25 Q. A lyon. And this looks like a gorilla to me; right?

26 A. Right.

27 Q. So now we know what the four groups are. We are sure;
28 right?

1 A. Yes.

2 Q. Okay. So what I just showed you, I will show now to
3 Court and to the jury. What I was talking about are the
4 animals on the wall here, and I see there are points under
5 each of the animals. Obviously, those points were kept every
6 day; right?

7 A. Yes.

8 Q. You earned points or lost points every day; right?

9 A. Yes.

10 Q. You got points for doing things and you didn't get
11 points if anybody in the group was late or doesn't do their
12 homework; right?

13 A. Right.

14 Q. Okay. Then we also talked earlier about a projector
15 being in sort of the middle of the class and a screen that
16 you would pull down in front of the white board, like the one
17 in the courtroom; right?

18 A. Right.

19 Q. That photograph shows that; correct?

20 A. Correct.

21 Q. Thank you.

22 Then finally, we'll put up A-13, and this appears
23 to show the right front corner of the classroom; right?

24 A. Right.

25 Q. All right. And, in fact, in this photograph we could
26 actually see parts of all of the groups; right?

27 A. Yes.

28 Q. In terms of the student desk, in other words, you've got

1 the tigers on the left, zebras after them; right? Then you
2 have the two third grade groups on the right-hand side of the
3 class; right?

4 A. Right.

5 Q. All right. So do you see -- is this a TV or TV screen?

6 A. Yes.

7 Q. Monitor? Okay.

8 This black thing that I'm pointing to here, do you
9 know what that is?

10 A. The treasure box.

11 Q. Yeah. You know -- you knew what that was right away;
12 right?

13 A. Yes.

14 Q. All right. So that was up by the white board. Did it
15 always stay there or Mr. Chandler sometimes move that places?

16 A. I can't remember.

17 Q. Okay. Time for you to take a break, you let us know?

18 A. Okay.

19 Q. You want to?

20 A. Sure.

21 Q. Actually, you need to ask the man who is running this
22 courtroom?

23 THE COURT: Actually, Isabell, I think it would be
24 a good time to take a break right now. So we're going to
25 take a 20-minute break.

26 I will order all members of the jury to report to
27 the jury assembly room on the second floor and we'll call you
28 back up in approximately 20 minutes.

1 All members of the jury, you are excused at this
2 time. You may leave the courtroom.

3 The individuals in the audience, thank you for
4 allowing the jury to leave the courtroom prior to you
5 exiting. We'll be in recess for 20 minutes.

6 (Whereupon, a brief recess was taken.)

7 THE COURT: Record will reflect that all members of
8 the jury are present, both counsel are present, Mr. Chandler
9 is present, and our witness, Isabell, is on the witness
10 stand.

11 Mr. Madden, you were continuing with your cross.

12 MR. MADDEN: Thank you, Your Honor.

13 BY MR. MADDEN:

14 Q. You get something to drink?

15 A. Yes.

16 Q. Good. All right. When you were first answering Ms.
17 Filo's questions this afternoon, when she asked you how many
18 times this occurred, where you put this object in your mouth,
19 you said you couldn't remember how many times, but it was
20 more than one --

21 A. Yes.

22 Q. -- right?

23 A. (Shakes head up and down.)

24 Q. Now, did -- at any time when this object was in your
25 mouth, did you ever cry?

26 A. No.

27 Q. Okay. Did you ever yell or scream?

28 A. No.

1 Q. Now, you told your mother that there was only one thing
2 that he put in your mouth and it was the same thing every
3 time; right?

4 A. Yes.

5 Q. Do you remember being in class blindfolded in front of
6 other class members when Mr. Chandler put things in your
7 mouth that you were supposed to guess what they were?

8 A. I can't remember.

9 Q. Okay. I want you to think really hard. Is that
10 something that may have happened or you just forgot or it
11 never happened?

12 A. Wait. Can you repeat the question?

13 Q. That was a bad question. I'm sorry. Yes, I will try.

14 Did you ever tell a police officer or anybody in
15 this case that Mr. Chandler sometimes put candy in your mouth
16 and asked you to guess what it was?

17 A. Yes.

18 Q. You did tell that to somebody?

19 A. Yes.

20 Q. You remember who you told that to?

21 A. Det. Sean.

22 Q. Det. Sean. Now, we have Det. Pierce who is the
23 gentleman --

24 MS. FILO: Sean.

25 BY MR. MADDEN:

26 Q. Oh, you call him Det. Sean. I'm sorry. Everyone is
27 working on first names but me.

28 What about crackers? Did you ever tell Det. Sean

1 that you remember some crackers being in your mouth?

2 A. I don't remember.

3 Q. Okay. You remember anything like chips or anything like
4 that?

5 A. No.

6 Q. You remember any other food?

7 A. No.

8 Q. All right.

9 But anyway, no matter what it was that he put in
10 your mouth, nothing -- no liquid ever came out of it while it
11 was in your mouth; right?

12 A. No.

13 Q. That's right?

14 A. Right.

15 Q. Okay. So this thing in your mouth, you said it was kind
16 of hard but kind of soft?

17 A. (Shakes head up and down.)

18 Q. Could you help me with what you meant by that?

19 A. I can't describe it.

20 Q. Do you remember anything in your mouth that tasted like
21 strawberry?

22 A. No.

23 Q. Okay. Do you remember telling any police officer that
24 there was something in your mouth that you remember tasting
25 like strawberry?

26 A. No.

27 Q. You don't remember that?

28 A. No.

1 Q. Is it possible that you said that, you just don't
2 remember; is that right?

3 MS. FILO: Objection, Your Honor. Asked and
4 answered.

5 MR. MADDEN: She's shaking her head vertically,
6 Your Honor.

7 THE COURT: Well, I'm going -- if you could
8 rephrase the question. I think it's a difficult question to
9 ask an eight-year-old. One other thing, Mr. Chandler --
10 excuse me again -- Mr. Madden, because you asked a question
11 about in the classroom and candy, and your questions are kind
12 of general right now, if we could make a distinction during
13 recess or in the classroom.

14 MR. MADDEN: Okay.

15 BY MR. MADDEN:

16 Q. Do you remember doing a taste game in the classroom with
17 the rest of your classmates?

18 A. Yes.

19 Q. All right. And the whole class was there?

20 A. Yes.

21 Q. And were you a volunteer?

22 A. Yes.

23 Q. You raised your hand to volunteer?

24 A. Yes.

25 Q. All right. On that day what you did, was it fun?

26 A. Sort of.

27 Q. Okay. Why was it fun?

28 A. Sort of don't remember.

1 Q. Okay. And could you tell me how many things did you
2 taste in front of the whole class?

3 A. One.

4 Q. Just one? Was that the same thing that you tasted when
5 you were alone with Mr. Chandler at recess?

6 A. No.

7 Q. Something different?

8 A. Yes.

9 Q. What was the thing you tasted in the classroom?

10 A. It was candy.

11 Q. Do you know what kind of candy?

12 A. I can't remember.

13 Q. I think that you said that when you were in the
14 classroom and you were tasting -- let me start again.

15 When you were in the classroom and tasting things,
16 were you blindfold?

17 A. Yes.

18 Q. All right. And was his hand in the back of your head?

19 A. Wait. Are you talking about -- when?

20 Q. I'm talking about when you were in the classroom tasting
21 candy?

22 A. In front of the class?

23 Q. Yes.

24 A. No.

25 Q. Was Mr. Chandler standing next to you when you tasted
26 the candy?

27 A. I don't know.

28 Q. Did he put the candy in your mouth?

- 1 A. Yes.
- 2 Q. All right. He told you to taste it; right?
- 3 A. Yes.
- 4 Q. He told you to move your tongue and taste it?
- 5 A. No.
- 6 Q. Did you move your tongue and taste it?
- 7 A. Yes.
- 8 Q. And you guessed what it was after you moved your tongue;
- 9 right?
- 10 A. Yes.
- 11 Q. Okay. Did you get it right?
- 12 A. Yeah, I think.
- 13 Q. How do you know?
- 14 A. I don't. I'm not sure.
- 15 Q. All right. What about crackers? Do you remember having
- 16 crackers, cheese crackers, or peanut butter crackers put in
- 17 your mouth?
- 18 A. No.
- 19 Q. You don't remember like kind of spitting those out? You
- 20 didn't like them?
- 21 A. Yes.
- 22 Q. You do remember now?
- 23 A. Yes.
- 24 Q. Okay. Now, that was also in front of the whole class?
- 25 A. No.
- 26 Q. That was with Mr. Chandler alone?
- 27 A. Yes.
- 28 Q. Okay. Were -- when you were alone with Mr. Chandler in

1 the classroom with the object in your mouth, were you ever in
2 any pain?

3 A. No.

4 Q. Okay. So you weren't uncomfortable when you were in the
5 classroom -- excuse me -- when you were in the classroom
6 alone with Mr. Chandler?

7 MS. FILO: Objection, Your Honor. Misstates the
8 testimony.

9 THE COURT: I will sustain. If you could rephrase.

10 MR. MADDEN: All right.

11 BY MR. MADDEN:

12 Q. You said when you were in the classroom alone with Mr.
13 Chandler, you were not crying, you were not in any pain;
14 right?

15 A. Right.

16 Q. Okay. Now, when you were in the classroom alone with
17 Mr. Chandler, it was recess; right?

18 A. Could you repeat that?

19 Q. Yes. When you were alone with Mr. Chandler with the
20 object in your mouth, that was at your morning recess time,
21 wasn't it?

22 A. Yes.

23 Q. Okay. And so when Mr. Chandler was done, he told you
24 simply you may go to recess; right?

25 A. Yes.

26 Q. He never told you anything about not telling anybody
27 what he just did, did he?

28 A. No.

1 Q. All right. He never told you don't tell your friends?

2 A. No.

3 Q. He never told you don't tell your parents?

4 A. No.

5 Q. Then you went to recess; right?

6 A. Yes.

7 Q. Then I believe you had told the police officer that you
8 had about 15 minutes left to play; right?

9 A. I had, like, barely 10 minutes to play.

10 Q. Do you remember telling a police officer that you had
11 15?

12 A. I think it was 15.

13 Q. Okay. Thank you.

14 When you were answering Ms. Filo's questions
15 earlier, you said something that I didn't really hear, and I
16 want to go back and ask you about that. Did you mention
17 anything -- did I hear you mention anything about a zipper?

18 A. Yes.

19 Q. And what did you remember about a zipper?

20 A. It was like a pant's zipper.

21 Q. And did you see a zipper being pulled down, or did you
22 hear it?

23 A. I heard it.

24 Q. And when did you hear it?

25 A. When he was done.

26 Q. When he was done?

27 A. (Shakes head up and down.)

28 Q. All right. Have you ever told anybody before today that

1 you ever heard the sound of a zipper?

2 A. What do you mean?

3 Q. Today, you said you heard the sound of a zipper being
4 zipped; is that right?

5 A. Yes.

6 Q. Today is the first day you ever said that to anybody;
7 right?

8 A. Yes.

9 Q. All right. Because many people, many police officers
10 asked you questions about what you heard and you never
11 mentioned anything about any zipper; right?

12 MS. FILO: Objection, Your Honor. Vague.

13 THE COURT: Sustained.

14 BY MR. MADDEN:

15 Q. Do you remember a police officer coming to your house
16 with another police officer the day that you told your mom
17 about Mr. Chandler?

18 A. Yes.

19 Q. He was wearing a uniform?

20 A. Yes.

21 Q. All right. And did you tell him this happened one time?

22 A. Yes.

23 Q. All right.

24 Be patient with me. Just going through my notes,
25 Isabell. Just trying to get through this as fast as I can.

26 Now, you also -- when you -- let me try that -- I
27 will start again.

28 On the day that you told your mom about Mr.

1 Chandler, you also talked with Ms. Peery, the principal;
2 correct?

3 A. Yes.

4 Q. In her office?

5 A. Yes.

6 Q. All right. You told her that it only happened one time?

7 A. No.

8 Q. You did not tell her? What did you tell her?

9 A. I told her that it happened more than one time.

10 Q. But you also told her it happened one time; right?

11 MS. FILO: Objection, Your Honor. Asked and
12 answered.

13 THE COURT: Sustained.

14 BY MR. MADDEN:

15 Q. Do you also remember the game being played in front of
16 the whole class that involved feeling things?

17 A. Yes.

18 Q. And the students volunteered, had things -- objects put
19 against their foot or their lower leg or their hands, and
20 they had -- they were blindfolded; right?

21 A. Right.

22 Q. And they had to guess what the object was; right?

23 A. Right.

24 Q. All right. Now, do you consider candy to be the same
25 thing as food?

26 A. What did you mean by that?

27 Q. Is candy a kind of a food or is it different than food?

28 A. Different than food.

1 Q. Okay. The crackers, did you consider the crackers to be
2 food?

3 A. I don't know.

4 Q. Okay. What did the crackers taste like?

5 A. I don't remember.

6 Q. Okay. Did they have any filling in them, you know, like
7 cheese or peanut butter?

8 A. I think one of them had peanut butter.

9 Q. Okay. I guess I didn't bring my crackers.

10 MR. MADDEN: Your Honor, I'm going to have a bag
11 containing maybe a half a dozen chips next in order. I think
12 this would be Defense C. Am I right?

13 MS. FILO: Your Honor, may we approach?

14 THE COURT: Yes.

15 (Whereupon, there was a discussion at the bench.)

16 BY MR. MADDEN:

17 Q. Did you say earlier that you remember hearing the sound
18 of keys?

19 A. Yes.

20 Q. And when did you hear the sound of keys?

21 A. When he zipped up his zipper.

22 Q. Oh, when he zipped up his zipper. Did you see him zip
23 up his zipper?

24 A. No.

25 Q. All right. Have you ever told that to anybody before
26 today?

27 A. Yes.

28 Q. Who did you tell that to?

- 1 A. I told it to a police.
- 2 Q. To whom?
- 3 A. Hmm?
- 4 Q. Who did you say it to? The police?
- 5 A. (Shakes head up and down.)
- 6 Q. Was that Sgt. Pierce or Officer Pierce?
- 7 A. Yes.
- 8 Q. That you heard the sound of keys as he was zipping up
- 9 his zipper?
- 10 A. Yes.
- 11 Q. So there is two sounds there at the same time?
- 12 A. Yes.
- 13 Q. Now, when you were with Mr. Chandler alone and you
- 14 were -- the object was no longer in your mouth -- let me ask
- 15 that question again.
- 16 Did you take the object out of your mouth or did
- 17 Mr. Chandler take the object out of your mouth when you were
- 18 alone with him?
- 19 A. Mr. Chandler did.
- 20 Q. All right. And then you took your blindfold off?
- 21 A. Yes.
- 22 Q. You just did that without being told to?
- 23 A. Yes.
- 24 Q. All right. And what was he doing when you took it off?
- 25 A. Nothing.
- 26 Q. Was he sitting or standing?
- 27 A. Standing.
- 28 Q. Okay. When he put the blindfold or the scarf on you,

1 did he keep his hand in the back of your head holding the
2 scarf so that you couldn't see?

3 A. I think.

4 Q. You think that's what happened?

5 A. Yep.

6 Q. Okay. And did he do the same thing with the
7 blindfold -- I think you said it was blue -- that he would
8 kind of hold that? Maybe it was loose and held that too?

9 A. No. Well, it was pretty tight.

10 Q. It was pretty tight. Okay. All right.

11 When you were taking the blindfold off, Mr.
12 Chandler never said anything like: Wait, wait. Not yet? He
13 never said anything like that, did he?

14 A. No.

15 Q. Okay. Do you remember how Mr. Chandler kept his keys
16 when you were in his class?

17 A. No.

18 Q. You don't know if he kept them in his pocket?

19 A. No.

20 Q. Do you remember if he had a -- you know what a lanyard
21 is?

22 A. No.

23 Q. Like a string or piece of leather around your neck with
24 the keys on it. You don't remember if that was something he
25 did?

26 A. No.

27 Q. You don't remember, do you?

28 A. No.

1 Q. Okay. I think I'm done for now, Isabell. Thank you
2 very much.

3 THE COURT: Redirect, Ms. Filo?

4 REDIRECT EXAMINATION

5 BY MS. FILO:

6 Q. Isabell, I'm going to try to be real brief. Okay?

7 A. Okay.

8 Q. Are you getting tired?

9 A. (Shakes head side to side.)

10 Q. No?

11 A. (Shakes head side to side.)

12 Q. Okay. Isabell, you answered some questions from the
13 patrol officers that came to your house; right? They had the
14 uniform on?

15 A. Yes.

16 Q. Did you do your absolute best when you talked to those
17 patrol officers to tell them nothing but the truth?

18 A. I'm not sure.

19 Q. When you talked to those officers, did you tell them the
20 truth?

21 A. Yes.

22 Q. Did you try really hard to tell them the truth?

23 A. Yes.

24 Q. Okay. And how about when you talked to Det. Sean? When
25 you went and you met with Det. Sean, did you do your absolute
26 best to tell him the truth?

27 A. Yes.

28 Q. And when you came to court and testified in May of last

1 year, did you do your absolute best to tell the truth?

2 A. Yes.

3 Q. When you came to court today, have you done your
4 absolute best to tell the truth?

5 A. Yes.

6 Q. Is it hard for you to remember some things?

7 A. Yes.

8 Q. Yes. So when you talked to Det. Sean a year and a half
9 ago, did you remember things better then or not -- or do you
10 remember things better now?

11 A. I remember things better then.

12 Q. Okay. But when you talked to him then, you told him the
13 truth?

14 A. Yes.

15 Q. And when you talked to us today, you told us the truth?

16 A. Yes.

17 Q. Okay. Ms. Isabell, that's all the questions I have.
18 Okay?

19 A. Okay.

20 Q. Thank you.

21 THE COURT: Recross, Mr. Madden?

22 MR. MADDEN: Nothing, Your Honor. Thank you.

23 THE COURT: Isabell, thank you. You are done and
24 you may step down.

25 And, Ms. Filo, I'm not sure if you need a minute.

26 MS. FILO: I do, Your Honor.

27 THE COURT: You need to approach?

28 MS. FILO: Actually, could I just have two minutes,

1 Your Honor?

2 THE COURT: Sure.

3 MS. FILO: Thank you.

4 THE COURT: We're off the record.

5 (Whereupon, there was a discussion off the record.)

6 MS. FILO: Your Honor, at this time, it's the
7 People's intention to play the MBI tape. It may take me just
8 a second to get it up and running.

9 THE COURT: Okay. And do you know the estimate of
10 how long it is?

11 MS. FILO: It is 43 minutes.

12 THE COURT: Okay.

13 MS. FILO: Is that -- do you want me to do it?

14 THE COURT: That's fine. Yeah. Off the record.

15 (Whereupon, there was a discussion off the record.)

16 MS. FILO: Your Honor, at this time, I do have --

17 THE COURT: You're going to be playing a CD?

18 MS. FILO: I am, Your Honor.

19 THE COURT: And is that CD going to be marked as
20 People's 1?

21 MS. FILO: Please.

22 THE COURT: Okay. And the exhibits will be marked
23 1 -- for the court 1-a.

24 MS. FILO: Thank you.

25 THE COURT: And then you are going to pass out the
26 exhibits for all members of the jury?

27 MS. FILO: I am.

28 ///

1 (Whereupon, People's Exhibits 1 and 1-a were marked
2 for identification..

3 THE COURT: And as she's doing that, ladies and
4 gentlemen, I want to remind you that the evidence is the
5 playing of the CD. The transcript is an aid for you. It's
6 my understanding that both attorneys earlier and agreed and
7 will stipulate that these transcripts could go into the jury
8 room when the jury starts deliberating. So you will have
9 those transcripts for your review when the jury starts
10 deliberating.

11 So I would ask you in light of it -- it's audio and
12 video, Ms. Filo?

13 MS. FILO: It is, Your Honor.

14 THE COURT: Okay. Obviously, you could follow the
15 evidence in any manner you choose. I would ask you and
16 suggest to you that it's important to view the screen since
17 it is both audio and video.

18 THE JUROR: We're one short, Your Honor.

19 THE COURT: And there is a stipulation, Counsel,
20 that my court reporter need not attempt to record the actual
21 playing of the CD?

22 MR. MADDEN: No, we're not letting her get away
23 with that, Your Honor. Yes, we'll stipulate.

24 THE COURT: I will note that Mr. Madden stipulates,
25 as does Ms. Filo. Correct, Ms. Filo?

26 MS. FILO: Yes, Your Honor.

27 THE COURT: And the transcript will be a part of
28 the court file.

1 (Whereupon, a tape was played, not reported.)

2 MS. FILO: Your Honor, if I might, this is actually
3 a six-minute break. I could forward the tape through.

4 THE COURT: You are okay with that, Mr. Madden?

5 MR. MADDEN: I am.

6 THE COURT: Thank you, Ms. Filo.

7 (Whereupon, a tape was played, not reported.)

8 MS. FILO: Your Honor, this is another two-minute
9 break. With counsel's permission, I will --

10 THE COURT: If there is no objection, you may
11 advance it.

12 MR. MADDEN: No objection, Your Honor.

13 (Whereupon, a tape was played, not reported.)

14 THE COURT: Record will reflect that we have
15 completed playing the CD, People's 1. I would ask, members
16 of the jury, if you could pass those transcripts to your
17 right and Ms. Filo will collect them. Once you have done
18 that, we're about to take our evening recess, and I'm going
19 to order all members of the jury to report to the jury
20 assembly room tomorrow morning at 9:00 a.m. We'll continue
21 with the trial.

22 Also, please remember my admonition, that you are
23 not to discuss this case with anyone or express or form any
24 opinions until the case is finally submitted to you for your
25 deliberations. You should not do any research or read or
26 listen to any news reports or media. If someone hands
27 something like that to you, or you come across that, it's
28 very important that you just set that aside. You're more

1 than welcome to look at these types of items at the
2 conclusion of the trial when you are excused. So please
3 remember that admonition.

4 All members of the jury, you are excused at this
5 time. Please leave your notebooks on your chairs. They will
6 be there for you when you come back. I promise you no one
7 will have access to them when you are gone.

8 The record will reflect that the jury has left the
9 courtroom. Both counsel and Mr. Chandler is present. This
10 afternoon we had a sidebar conversation out of the presence
11 of the jury. Mr. Madden has requested that he have an item
12 that was in a clear plastic bag marked as defense next in
13 order. It was a food item. And I indicated to Mr. Madden I
14 was not inclined to allow him to do that pursuant to 352.
15 And I will allow, Mr. Madden, first of all, if you'd like to
16 supplement the record, you may do so at this time.

17 MR. MADDEN: Thank you, Your Honor. The items
18 within the exhibit consist of pork rinds, a chip-type snack.
19 I believe the Court indicated in its ruling that it was ruled
20 against me on 352 grounds. I will indicate to start that
21 this witness is describing objects physically consistent with
22 those; that they are similar length, they are certainly
23 curvy, they have certainly a roundness to them.

24 I will also indicate to the Court that Mr. Chandler
25 had a -- this is in terms of my good faith, Mr. Chandler was
26 interviewed by Det. Pierce for several hours on the evening
27 of the 9th and specifically mentioned pork rinds. He also
28 mentioned crackers and also mentioned another type of candy.

1 Officer Pierce the next day re-interviewed Isabell and asked
2 about all of those items.

3 Mr. Chandler had told Det. Pierce the evening
4 before that he gave her pork rinds, but she didn't get it.
5 She guessed beef jerky. And that the next day, apparently
6 with that information, Det. Pierce re-interviewed Isabell,
7 went through all of those things, and she confirmed two of
8 the three, but she didn't confirm beef jerky. But of course
9 it wasn't beef jerky.

10 What I'm saying is that I, in good faith, believe
11 that these items are the items -- the item that was put in
12 her mouth when she was alone with Mr. Chandler, and that she
13 should be allowed to look at it, to hold the outside of the
14 bag. I will not ask her to put it in her mouth and taste it.
15 I would ask her questions such as, has she ever had something
16 like this. I had never tasted a pork rind until this case.
17 I know what they taste like now. Many people are quite fond
18 of them. It's my understanding that Mr. Chandler has been
19 eating rinds since he was a little boy. They were offered in
20 his class. I think there is plenty of relevance to this.
21 I'm at a loss as to why the probative value is outweighed by
22 the prejudicial effect. If she even recognizes it and she
23 says it's consistent or not.

24 THE COURT: Thank you.

25 Ms. Filo, do you wish to respond?

26 MS. FILO: Your Honor, the child has now been asked
27 on multiple occasions could she describe the object, and
28 she's given us the best description that she possibly can.

1 Handing her a myriad of items doesn't seem in any way to
2 confirm or deny. She's repeatedly said that she didn't ever
3 see the object. She never saw what was in her mouth, so
4 handing her a bag of anything and saying could this have been
5 it is not going to help her because she never saw the item.
6 What she did was feel it in her mouth, and that's the only
7 description that she's been able to give us.

8 So I mean, there is no relevance. There is no
9 nexus between handing her a bag full of items and asking her,
10 you know, could this or could this not have been the item
11 when she's not able to answer that based on its presentation
12 to her.

13 MR. MADDEN: I disagree, Your Honor. There is no
14 reason why she can't use her sense of sight, even though she
15 didn't have it at the time, and her sense of what she felt on
16 her tongue, a taste to see if the surface of that is
17 consistent with what she felt, to see if the weight of it,
18 the kind of hard, kind of soft would apply. I would have no
19 objection to her crushing it. I have a hard time seeing the
20 prejudicial effect of that.

21 THE COURT: Thank you. As I mentioned at sidebar,
22 I was not going to allow this pursuant to 352. That ruling
23 will remain. As far as the Court is concerned, the
24 relevance, in my opinion, would only apply in this particular
25 situation if she was allowed to put that particular food item
26 in her mouth. I will not require her to do that with that
27 particular item, or any other item. And for those reasons,
28 the objection is sustained.

1 We'll be in recess until tomorrow morning at 9 a.m.
2 I will order both counsel and Mr. Chandler here at 9:00
3 o'clock and we'll continue with the trial.

4 (Whereupon, the Court took the evening recess.)
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1 STATE OF CALIFORNIA)
2 COUNTY OF SANTA CLARA)

3

4 I, JAMIE L. MIXCO, HEREBY CERTIFY THAT:

5 The foregoing is a full, true, and correct
6 transcript of the testimony given and proceedings had in the
7 above-entitled action taken on the above-entitled date; that
8 it is a full, true, and correct transcript of the evidence
9 offered and received, acts and statements of the Court, also
10 all objections of counsel, and all matters to which the same
11 relate; that I reported the same in stenotype to the best of
12 my ability, being the duly appointed and official
13 stenographic reporter of said Court, and thereafter had the
14 same transcribed into typewriting as herein appears.

15 I further certify that I have complied with CCP
16 237(a)(2) in that all personal juror identifying information
17 has been redacted if applicable.

18

19 Dated:

20

21

22 _____
23 Jamie L. Mixco, C.S.R.
Certificate No. 12708

24 ATTENTION:

25 CALIFORNIA GOVERNMENT CODE
SECTION 69954(D) STATES:

26 "ANY COURT, PARTY, OR PERSON WHO HAS PURCHASED A TRANSCRIPT
27 MAY, WITHOUT PAYING A FURTHER FEE TO THE REPORTER, REPRODUCE
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PERSON."

EXHIBIT 3

(Vol. 9)

TO THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

---o0o---

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)

Plaintiff - Respondent,)

v.)

No. C1223754

CRAIG RICHARD CHANDLER,)

Defendant - Appellant.)

COPY

VOLUME 9

PAGES 668 - 794

JULY 16, 2013

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REPORTER'S TRANSCRIPT ON APPEAL
FROM THE JUDGMENT OF THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA
BEFORE THE HONORABLE ARTHUR BOCANEGRA, JUDGE, AND JURY

---o0o---

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: OFFICE OF THE ATTORNEY GENERAL
BY: KAMALA D. HARRIS,
Attorney General of the State
of California

FOR DEFENDANT-APPELLANT: In Propria Persona

— — — 00 — — —

CASE NO. C1223754

---o0o---

JULY 16, 2013

---o0o---

JAMIE L. MIXCO
C.S.R. No. 12708

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1 San Jose, California July 16, 2013

2 PROCEEDINGS

3 THE COURT: Thank you, ladies and gentlemen.
4 Record will reflect all members of the jury are present, both
5 counsel are present, and Mr. Chandler is present.

6 Ms. Filo, you ready to call your next witness?

7 MS. FILO: Thank you, Your Honor. The People call
8 Kim To. Your Honor, I will state for the record that Ms. To
9 is going to require the services of a Cantonese interpreter,
10 who is here.

11 THE COURT: Thank you.

12 KIM TO,

13 Being called as a witness on behalf of the People,
14 having been first duly sworn, was examined and testified as
15 follows:

16 THE CLERK: For the record, ma'am, please state and
17 spell your full name.

18 THE WITNESS: T-o. K-i-m.

19 THE COURT: Thank you, ma'am. The lawyers are
20 going to ask you questions. It's important that you wait
21 until the question is interpreted from English into Cantonese
22 and give your answer in Cantonese. Please make every effort
23 to try to answer only the question that is being asked.
24 Thank you.

25 Before we begin direct, ladies and gentlemen, with
26 the next witness and possibly others, an interpreter will
27 provide you with a translation of the testimony. You must
28 rely on the translation provided by the interpreter, even if

1 you understand the language spoken by the witness. Do not
2 re-translate any testimony for other jurors. If you believe
3 the court interpreter translated testimony incorrectly, let
4 me know immediately by writing me a note and giving it to our
5 courtroom deputy. This should be done before the witness is
6 excused.

7 Ms. Filo, when you are ready, direct examination.

8 MS. FILO: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MS. FILO:

11 Q. Good morning, Ms. To.

12 A. Good morning.

13 Q. Do you have a daughter named Becky?

14 A. Yes.

15 Q. And how old is Becky?

16 A. Ten years old.

17 Q. What grade will she start this fall?

18 A. Fifth grade.

19 Q. And what's --

20 A. You mean this month? This school term?

21 Q. Correct.

22 A. Yes.

23 Q. Fifth grade?

24 A. Yes.

25 Q. Where did Becky attend school for her third grade year?

26 A. O.B. Whaley.

27 Q. When she first began her third grade year, what was the
28 name of her teacher?

1 A. I forgot the teacher's name. Maybe you will have to say
2 the name and see if I can recall.

3 Q. Was his name Craig Chandler?

4 A. Yes, because I have limited English.

5 Q. You are doing fine.

6 Ms. To, Becky started third grade with Mr.
7 Chandler. Did she move to another classroom in October of
8 2011?

9 A. Yes.

10 Q. Why?

11 A. Yes, because one day my daughter came home and told me,
12 and I talked to the principal. And after our talk with the
13 principal, she was transferred to another class.

14 Q. Okay. You said that one day Becky came home and told
15 you something?

16 A. Yes. She came home from school and she told me.

17 Q. What did she tell you?

18 A. She told me that the school teacher asked her to go into
19 a room, and then I talked to the principal.

20 Q. You said the teacher asked her to go into a room, what
21 kind of room?

22 A. She only told me that during the recess the teacher
23 asked her to go into a room and -- I don't know.

24 Q. Okay. What did she tell you happened in the room?

25 A. She told me that the teacher blindfolded her, and I was
26 very scared after hearing that.

27 Q. Why were you scared? What were you scared of?

28 A. Because my daughter told me that she was blindfolded

1 and -- I don't know.

2 Q. You didn't understand why?

3 A. I could not recall what my daughter told me, but then
4 the moment that she told me that she was blindfolded, I was
5 scared.

6 Q. Okay. Did Becky talk to you about Mr. Chandler putting
7 anything in her mouth?

8 A. It happened a long time ago, and then it seems that my
9 daughter told me so, but for a long time now I forgot what
10 she told me.

11 Q. Okay. So you said it seems so, do you remember Becky
12 telling you that Mr. Chandler put something in her mouth
13 while she was blindfolded as you sit here today?

14 A. I don't quite remember clearly putting something in her
15 mouth. The only thing that I remember clearly was that Becky
16 told me she was blindfolded.

17 Q. Okay. Did Becky tell you that while she was blindfolded
18 something was put in her mouth and some sort of liquid came
19 out, some sort of water came out?

20 A. Um, she was not -- she told me that she was not quite
21 sure whether it was candy or something, because at that time
22 she was blindfolded, so she's not affirmative.

23 Q. Okay. But did she tell you that some liquid came out of
24 her mouth?

25 A. For sure, I don't remember. I don't remember.

26 Q. Okay. Did Becky -- did Becky show you what she was
27 wearing that day?

28 A. She was wearing a black sweater.

1 Q. Ms. To, I'm going to show you a photograph. It's going
2 to be up on the screen.

3 MS. FILO: And, Your Honor, by stipulation, counsel
4 and I agree that a hard copy of what's being viewed will be
5 submitted to the court as an exhibit this afternoon.

6 THE COURT: Right.

7 MR. MADDEN: So stipulated, Your Honor.

8 THE COURT: Thank you, Mr. Madden. And this is
9 going to be marked later as People's 2.

10 BY MS. FILO:

11 Q. Ms. To, is what's projected on the screen there a
12 photograph of the jacket, the sweatshirt, that your daughter
13 was wearing when she came home and told you that she had been
14 in the classroom or in a room with Mr. Chandler?

15 A. Yes, it is the jacket. It has been a long time now.

16 Q. Okay. And when you last -- sorry. When Becky came home
17 that day, there was a stain on that jacket; right?

18 A. Yes.

19 Q. Where was the stain?

20 A. I do not recall now.

21 Q. Was it on the front? On the back? On the arms? Do you
22 remember anything?

23 MR. MADDEN: Objection. Compound question.

24 THE COURT: Overruled. You may answer it.

25 THE WITNESS: For sure, I don't remember where was
26 the stain on the jacket.

27 BY MS. FILO:

28 Q. Okay. Could you give me your best estimate?

1 A. It could be in the front.

2 Q. In the front? Okay.

3 Ms. To, did you --

4 A. I'm not quite sure, though. It seems to be in the
5 front.

6 Q. Ms. To, was there -- what did the stain look like?

7 A. The stain looked like snots, the discharge from the
8 nose, a little bit white and very little.

9 Q. Was it something you were concerned about?

10 A. Um, basically, Becky was a little school girl. I have
11 no other thought besides the fact that she might make her
12 jacket dirty in some way and I don't think of other things.

13 Q. Okay. Ms. To, do you remember talking to a police
14 officer in this case? His name was Russ Chubon or Chubon?

15 A. I don't quite remember the name.

16 Q. Do you remember speaking to a police officer?

17 A. Yes.

18 Q. Do you remember going to a building where the Bank of
19 America is on the bottom floor?

20 A. Yes.

21 Q. And when you spoke with the officer there, did you have
22 a clear memory of what Becky told you?

23 A. It happened for just a short period of time. After I
24 talked to the police officer, I still can remember clearly,
25 but now it has been a long time. It happened a long time
26 ago, therefore I don't quite remember.

27 Q. Completely fair. Ms. To, do you remember -- let me
28 withdraw that.

1 Did you tell Officer Chubon that Becky told you
2 that a student was sent to get her to bring her back to the
3 classroom?

4 A. I don't remember.

5 Q. Okay. Did you tell Officer Chubon that Becky told you
6 that the door to the room was closed?

7 A. Yes, I believe that I told him. Yes.

8 Q. Because that is what Becky told you; is that correct?

9 A. Yes.

10 Q. Okay. Did you tell Officer Chubon that her eyes were
11 covered and something soft was rubbed across her feet?

12 A. Yes. Yes, I remember that my daughter told me that she
13 was blindfolded.

14 Q. And that something was rubbed on her feet?

15 A. Yes.

16 Q. Okay. Did you tell Officer Chubon that Becky told you
17 that Mr. Chandler put something in her mouth?

18 A. I do not remember.

19 Q. You don't remember telling Officer Chubon that?

20 A. I do not remember.

21 Q. Ms. To, you said that you talked to the principal about
22 what Becky had told you; is that correct?

23 A. Yes.

24 Q. Is her name Lyn Vijayendran?

25 A. Yes. I don't quite recognize the name. Her name could
26 be Lee -- something like that.

27 Q. Did you actually bring this jacket that's up on the
28 screen to Ms. Vijayendran to show her the stain that was on

1 the jacket?

2 A. Yes.

3 Q. Why?

4 A. She asked me.

5 Q. Did you tell Officer Chubon that there was something
6 that had dried to an off-white color on the front of your
7 daughter's black jacket?

8 A. Yes. Basically, I did not notice about this matter, but
9 he asked me if there was a white stain on the jacket, on
10 front of the jacket, so I have to take the jacket out.

11 Q. I'm sorry. You didn't notice the stain?

12 A. I did not notice, but then when my daughter told me that
13 there was a stain, then I just put the jacket in the laundry
14 basket. And then the next day when I met with Officer
15 Chubon, he asked me, then I remember to pick it up from the
16 laundry basket, the jacket.

17 Q. Okay. So, Ms. To, your conversation with the principal
18 was in October of 2011; correct?

19 A. Yes, it has been a long time. I don't remember the
20 date.

21 Q. Okay. And your conversation with Officer Chubon was in
22 January of 2012; is that right?

23 A. Do you mean the officer?

24 Q. Yes.

25 A. I been there to meet the officer, but I am not sure what
26 day was it.

27 Q. Okay. All I'm trying to ask you, there was some time
28 that passed between your conversation with the principal and

1 your conversation with Officer Chubon. It wasn't the next
2 day. It was many weeks. Yes?

3 A. Yes, there was a time frame.

4 Q. Okay. So when you brought this jacket to the principal,
5 what happened with it after your conversation with the
6 principal?

7 A. The principal gave it back to me and then I brought home
8 to laundry.

9 Q. And did you wash it several times before giving it to
10 Officer Chubon?

11 A. Yes. I washed the jacket when I was given it back from
12 the principal the next day. And I believe that when I
13 brought this jacket to the police officer, the jacket has
14 been washed.

15 Q. Okay. Ms. To, was Becky transferred from Mr. Chandler's
16 classroom the day that you met with the principal?

17 A. One day after I talked to the principal, then Becky was
18 transferred to classroom number 15. It was the day after.

19 Q. So the next day she went to a new classroom?

20 A. Yes.

21 Q. Ms. To, have you been reluctant to participate in the
22 court process?

23 A. It is correct.

24 Q. How come?

25 A. The reason is that my daughter has been transferred to
26 another school, and then she was she still small and I don't
27 want my daughter to deal with this because the matter is not
28 black and white.

1 Q. You don't want her to deal with this?

2 A. The matter happened, but in fact I don't know whether it
3 is the fact or not. And furthermore, I don't want her to
4 keep thinking about the old stuff.

5 Q. You don't want her to remember?

6 A. Basically, it is not that I don't want my daughter to
7 remember, but now she's going to school, she's going to
8 school in another area, and I want the things that is in the
9 past put it behind me and I don't want her to keep thinking
10 about that matter.

11 Q. Okay.

12 MS. FILO: That's all the questions I have. Thank
13 you very much, Ms. To.

14 THE COURT: Thank you, Ms. Filo.

15 Cross-examination, Mr. Madden?

16 MR. MADDEN: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. MADDEN:

19 Q. Good morning.

20 A. Good morning.

21 Q. Ms. To, my name is Brian Madden. I'm Mr. Chandler's
22 lawyer and I'm going to ask you some questions.

23 When your daughter was in Mr. Chandler's class, was
24 it your habit to speak with her every day after school to
25 talk about what happened in school that day?

26 A. Yes.

27 Q. And the day that your daughter told you about Mr.
28 Chandler blindfolding her and putting something across her

1 feet and in her mouth, what she told you was in response to
2 you asking her: How was your day?

3 A. Yes.

4 MR. MADDEN: I always know my question was too long
5 when I have a long translation, Your Honor.

6 BY MR. MADDEN:

7 Q. Now, based on what Becky told you that afternoon, you
8 were scared for her?

9 A. As a parent, when your daughter tells you that somebody
10 blindfolded her, you get scared. And that is why I talked to
11 the principal the next day.

12 Q. Of course. I understand. Even though you were scared,
13 is it correct that your daughter did not appear to be scared?

14 A. Yes, she was just a small kid. What did she know?

15 Q. I understand. She didn't appear to be upset or afraid
16 or concerned about what happened in school that day?

17 A. My daughter was a small kid. She does not appear that
18 she know anything, and then I keep telling her: It is all
19 right. It is all right. Just to console her.

20 Q. Why did you have to console her?

21 A. The reason that I have to console her is so that she
22 would not be so scared to go to school.

23 Q. Did she tell you she was scared to go to school?

24 A. No.

25 Q. Thank you very much, Ms. To.

26 THE COURT: No further questions, Mr. Madden?

27 MR. MADDEN: No, Your Honor.

28 THE COURT: Ms. Filo, redirect?

1 MS. FILO: Thank you, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. FILO:

4 Q. Ms. To, did you teach Becky to respect her teachers?

5 A. Yes, I did.

6 Q. Did you tell her that she was supposed to do as she was
7 told at school?

8 A. Yes.

9 Q. Becky is a trusting little girl?

10 A. Yes.

11 Q. Thank you.

12 MS. FILO: Nothing further.

13 THE COURT: Thank you.

14 Recross, Mr. Madden?

15 MR. MADDEN: Nothing, Your Honor. Thank you.

16 THE COURT: May this witness be excused?

17 MR. MADDEN: She may.

18 MS. FILO: Yes, Your Honor.

19 THE COURT: Thank you, Ms. To. You are excused.

20 You may step down and you are free to leave.

21 Ms. Filo.

22 MS. FILO: Yes, Your Honor. People call Becky.

23 Your Honor, Becky has asked that an advocate be present with
24 her while she testifies, and Elvia Ricas (phonetic) is going
25 to sit with her on the stand, if that is acceptable to the
26 Court?

27 THE COURT: Would counsel approach first, please.

28 MS. FILO: Yes.

1 (Whereupon, there was a discussion at the bench.)
2 THE COURT: Ms. Filo, if you could bring her in,
3 please.

4 MS. FILO: Thank you.

5 BECKY DOE,
6 Being called as a witness on behalf of the People,
7 having been first duly sworn, was examined and testified as
8 follows:

9 THE COURT: Becky, would you spell your first name?

10 THE WITNESS: B-e-c-k-y.

11 THE COURT: Thank you. I'm going to ask you to --
12 could you pull your chair up a little bit. Thank you very
13 much. And I'm going to ask you to talk in the microphone so
14 everyone could hear you.

15 Ma'am, I will remind you, you are not to encourage,
16 suggest, or prompt any response by Becky. Okay? Thank you.

17 I know that Ms. Filo has talked to you about asking
18 you questions and how it works here in the courtroom, so I'm
19 going to simply let her begin with direct. Okay?

20 DIRECT EXAMINATION

21 BY MS. FILO:

22 Q. Okay. Hi, Becky.

23 A. Hi.

24 Q. How are you?

25 A. I'm good.

26 Q. Good. Becky, you and I have talked before about the
27 rules of testifying; right, when you come to court?

28 A. Yes.

1 Q. What are the rules?

2 A. Um --

3 Q. Do you remember?

4 A. She can't do anything.

5 Q. She can't do anything, that's right. You remember the
6 number one, most important rule about being in court?

7 A. I pretty much forgot.

8 Q. That you have to tell the --

9 A. Truth.

10 Q. Right. Good answer. Okay. And you remember that you
11 need to use real words; right?

12 A. Yes.

13 Q. Like, yes or no, or I don't know, because Ms. Jamie here
14 is taking down everything we say and --

15 A. Yes.

16 Q. When you say uh-huh or nah-uh, she doesn't know what to
17 type. Okay?

18 A. Yes.

19 Q. Could you remember that?

20 A. Yes.

21 Q. It's your big American Idol moment. You get to talk
22 into the microphone. All right?

23 A. Yes.

24 Q. So we could all hear you. Okay, Ms. Becky?

25 THE COURT: Excuse me, Ms. Filo. Would you push
26 the microphone over a little.

27 BY MS. FILO:

28 Q. Okay. Becky, how old are you right now?

1 A. I'm 10.

2 Q. And when is your birthday?

3 A. March 4, 2003.

4 Q. Okay. So what grade are you going to be in this year
5 when you go back to school?

6 A. I'm going to be in fifth grade.

7 Q. Fifth grade. Oh, my goodness. Becky, what are you
8 going to learn in the fifth grade? Do you know?

9 A. Lots of science.

10 Q. Do you like science?

11 A. No.

12 Q. What's your favorite thing to do at school?

13 A. Math.

14 Q. Math. All right.

15 So, Becky, you remember that when we come to court
16 we're only going to talk about things that are real; right?

17 A. Yes.

18 Q. So if I started asking you about fairies, would that be
19 real or make-believe?

20 A. Make-believe.

21 Q. Okay. And we're only going to talk about things that
22 are real in court?

23 A. Yes.

24 Q. Okay. So, Becky, do you remember being in third grade?

25 A. Yes.

26 Q. Do you know who your teacher was when you started third
27 grade?

28 A. Mr. Chandler.

- 1 Q. And did you -- did you move to a different classroom?
- 2 A. Yes.
- 3 Q. What classroom did you move to?
- 4 A. Room 15.
- 5 Q. Room 15. Who was the teacher there?
- 6 A. Ms. Jaeger.
- 7 Q. So, Becky, when you were in Mr. Chandler's classroom,
- 8 could you tell me something you did in the classroom that was
- 9 fun?
- 10 A. I forgot.
- 11 Q. Okay. You were in third grade at the time; right?
- 12 A. Yes.
- 13 Q. Were there also second-graders in that classroom?
- 14 A. Yes.
- 15 Q. So it was what they call a combination class, a combo
- 16 class?
- 17 A. Yes.
- 18 Q. Okay. Who was your best friend when you were in Mr.
- 19 Chandler's classroom?
- 20 A. I had two.
- 21 Q. Who were they?
- 22 A. Vivian and Jenny.
- 23 Q. Vivian and Jenny. And were they people that you played
- 24 with on the school -- at school?
- 25 A. Yes.
- 26 Q. You played at recess?
- 27 A. Yes.
- 28 Q. Okay. And did you have lunch with them every day?

- 1 A. Yes. Not every day.
- 2 Q. Not every day, but lots of days?
- 3 A. Yes.
- 4 Q. Yeah. Okay. And were they in your same classroom?
- 5 A. Yes.
- 6 Q. Okay. So, Becky, I want to ask you about why you
- 7 transferred, why you went from Mr. Chandler's room to Mrs.
- 8 Jaeger's room. Could you tell me why you did that?
- 9 A. I don't know.
- 10 Q. You don't know?
- 11 A. No.
- 12 Q. Okay. Do you remember telling your mom about something
- 13 happening in Mr. Chandler's room?
- 14 A. No.
- 15 Q. No? Did you talk to your mom about being called in at
- 16 recess time?
- 17 A. I actually don't know.
- 18 Q. You don't know?
- 19 A. No.
- 20 Q. Okay. Do you remember one of your classmates, Michaela,
- 21 telling you to come into the classroom, into Mr. Chandler's
- 22 classroom?
- 23 A. I think so.
- 24 Q. Okay. What do you think happened?
- 25 A. I forgotten.
- 26 Q. You've forgotten?
- 27 A. Yes.
- 28 Q. Okay. So you don't remember Michaela calling you into

1 the classroom?

2 A. I just remember that.

3 Q. You remember that?

4 A. (Shakes head up and down.)

5 Q. What happened once you got into the classroom?

6 A. Um, I think I sat.

7 Q. Sat? Okay. Where did you sit?

8 A. I can't remember.

9 Q. You don't remember at all?

10 A. No.

11 Q. Okay. How about if I show you a picture, would that
12 help?

13 A. Maybe.

14 Q. All right. Let's see what we got. Okay.

15 So, Becky, this has been marked as Defense Exhibit

16 A-1. Do you recognize what's in that picture?

17 A. Yes.

18 Q. Yeah? What is that?

19 A. A classroom.

20 Q. Is that Mr. Chandler's classroom?

21 A. Yes.

22 Q. So there is this desk right here in the -- all the way
23 on the left-hand side of the picture, there is a desk right
24 there. Whose desk is that?

25 A. I think Mr. Chandler's.

26 Q. Okay. And there is a red bucket here. Do you know what
27 that was for?

28 A. Um, I think toys.

1 Q. Okay. And all of the books are here. What are these
2 books?

3 A. Um, some non-fiction and some fiction books.

4 Q. Okay. That's where you got the books that you would
5 read in class sometimes?

6 A. Yes.

7 Q. Okay. There is some student -- these look like student
8 desks. Are those student desks over here?

9 A. Yes.

10 Q. Yes. Okay. So when Michaela came in and got you and
11 asked you to come to the classroom, where did you go? Where
12 were you in the classroom? Were you any place in this
13 picture?

14 A. Um, I don't know.

15 Q. You don't know?

16 A. No.

17 Q. Okay. You said that you were sitting?

18 A. Yeah, but I don't know where I was sitting.

19 Q. You don't?

20 A. I think the picture is cutoff.

21 Q. You think the picture is a little cutoff?

22 A. Yes.

23 Q. Okay. Let me see if I could find another one that might
24 have more.

25 Okay, Becky, this is just Exhibit A. This may be
26 our very first one. Was it any place on this picture?

27 A. I think I was in that chair.

28 Q. Which chair?

1 A. The first desk.

2 Q. This one right here?

3 A. Yes.

4 Q. Okay. What --

5 MR. MADDEN: Your Honor, would Ms. Filo please
6 identify on the record where she pointed?

7 MS. FILO: Your Honor, on the bottom left-hand
8 corner of the photograph there is a blue -- what appears to
9 be a blue pencil box and a blue chair.

10 THE COURT: Thank you.

11 THE WITNESS: Yeah.

12 BY MS. FILO:

13 Q. You think you were right where this blue chair was?

14 A. No.

15 Q. Where were you?

16 A. I think I was sitting right -- I think near the desk.

17 Q. Near the student desk or Mr. Chandler's desk?

18 A. Between.

19 Q. Okay. So right in here?

20 A. Yes.

21 Q. Okay. That's the area in between these two desks?

22 A. Yes.

23 Q. Okay. You said you were sitting there?

24 A. Yeah.

25 Q. What were you sitting on?

26 A. A chair.

27 Q. Whose chair?

28 A. I don't know the name.

- 1 Q. You don't know the name?
- 2 A. Because I can't see the name tag.
- 3 Q. Okay. But you think it was a chair like this student
- 4 chair here?
- 5 A. Yeah.
- 6 Q. Okay. So Mr. Chandler's chair has rollers on it. See
- 7 that?
- 8 A. Yes.
- 9 Q. Did you sit in this chair?
- 10 A. No.
- 11 Q. It did not have rollers?
- 12 A. No.
- 13 Q. Okay. So you said you sat in this -- in a chair right
- 14 here in front of Mr. Chandler's desk?
- 15 A. Yes.
- 16 Q. What happened when you sat in the chair?
- 17 A. I don't know.
- 18 Q. You don't know. Could you remember anything?
- 19 A. No.
- 20 Q. No? Do you remember talking to the police officers in
- 21 this case?
- 22 A. A little bit.
- 23 Q. A little bit?
- 24 A. Yes.
- 25 Q. Do you remember going to a building about a block away
- 26 from here and there is a bank on the bottom floor?
- 27 A. No.
- 28 Q. You don't remember that?

1 A. No.

2 Q. Do you remember being in a letter room and you were --
3 there is some pictures on the walls, like paintings on the
4 walls?

5 A. No.

6 Q. You don't remember that?

7 A. No.

8 Q. Do you remember talking to Det. Sean?

9 A. Yes.

10 Q. Yeah? Where did you talk to him?

11 A. I don't know.

12 Q. You don't remember?

13 A. I have no remember (verbatim).

14 Q. Do you remember what you said to Det. Sean?

15 A. No.

16 Q. No?

17 A. No.

18 Q. Do you remember telling him that Mr. Chandler put a
19 blindfold on you?

20 A. No.

21 Q. No? Do you remember whether Mr. Chandler did put a
22 blindfold on you?

23 A. No.

24 Q. No?

25 A. No.

26 Q. Did Mr. Chandler put something in your mouth?

27 A. I don't know.

28 Q. You don't know?

1 A. No.

2 Q. Are you sure you don't know?

3 A. I think I forgot.

4 Q. You think you forgot?

5 A. Yes.

6 Q. How come you think you forgot?

7 A. I think it has been two or three years, that's why.

8 Q. Yeah? Well, what do you remember? Could you tell me

9 what you do remember about talking to Det. Sean?

10 A. Um, nothing.

11 Q. You don't remember anything about talking to Det. Sean?

12 A. I remember talking to him, but other than what I said --

13 Q. You don't remember what you said?

14 A. Yes.

15 Q. Do you remember -- you said you remember sitting in the

16 classroom; right?

17 A. Yeah.

18 Q. And you remember what kind of chair you were sitting in,

19 but you don't remember anything else?

20 A. Yeah. Yes.

21 Q. Do you remember a blindfold?

22 A. No.

23 Q. Do you remember him putting anything on your feet?

24 A. No.

25 Q. Do you remember him putting anything in your mouth?

26 A. No.

27 Q. Do you remember how many times you were brought into the

28 classroom?

1 A. No.

2 Q. Do you remember whether anyone else was there?

3 A. No.

4 Q. Do you remember if the door was open or closed?

5 A. I think mostly closed.

6 Q. Mostly closed?

7 A. Yes.

8 Q. Okay. Do you remember anything coming out of your

9 mouth?

10 A. No.

11 Q. Do you remember anything getting on your jacket or your

12 pants?

13 A. I think my jacket.

14 Q. Okay. What got on your jacket?

15 A. I don't know, but I remember something in my jacket.

16 Q. You remember something on your jacket?

17 A. Yes.

18 Q. What was it?

19 A. I think water. I don't know.

20 Q. Okay. Why do you think it was water?

21 A. Um, I think I felt something wet on there.

22 Q. Okay. Where did you feel something wet?

23 A. Like, on the corner -- not the corner. Near the corner

24 of the jacket.

25 Q. Okay. You felt something wet on the jacket?

26 A. Yes.

27 Q. Where did the wet thing come from?

28 A. I don't know.

1 Q. Did it come from your mouth?

2 A. Um, I don't know.

3 Q. Okay. And you don't know -- you don't know what the wet
4 thing was?

5 A. No.

6 Q. And you don't know if it came from your mouth?

7 A. No.

8 Q. Where else -- where did it come from?

9 A. I don't know.

10 Q. Okay. So, Becky, you have -- you've had to come to
11 court before; right?

12 A. Yes.

13 Q. And you answered a lot of questions before; right?

14 A. Yes.

15 Q. Did you do the best that you could to tell the truth
16 then?

17 A. Yes.

18 Q. And when you talked to the police officers, did you do
19 your absolute best to tell the truth?

20 A. Yes.

21 Q. So why do you think you don't remember anything?

22 A. Because I have been learning a lot.

23 Q. Been learning a lot. Your brain is full?

24 A. Yes.

25 Q. Yeah, that happens. Becky, has your mom or your dad
26 ever -- do you know what the word "encourage" means?

27 A. No.

28 Q. No. Have they ever asked you to forget about being in

1 Mr. Chandler's class?

2 A. Um, because sometimes I have dreams about it.

3 Q. Yeah? What kind of dreams?

4 A. Like, mostly something else, and then I have to think
5 about it and then I forgot.

6 Q. Okay. Do you like to think about being in Mr.
7 Chandler's class, or do you not want to think about being in
8 Mr. Chandler's class?

9 A. No.

10 Q. No what?

11 A. I don't like thinking about that.

12 Q. How come?

13 A. Because some -- because I mostly want to think about
14 school, like learning.

15 Q. Okay. And you don't want to think about Mr. Chandler's
16 classroom?

17 A. Yes.

18 Q. How come?

19 A. Um, I don't know, but my brain tells me to.

20 Q. Your brain tells you to forget?

21 A. Yes.

22 Q. Did something bad happen there?

23 A. I don't know.

24 Q. Okay. But your brain just tells you not to remember?

25 A. Yes.

26 Q. Okay. Could you remember anything else that you haven't
27 told me?

28 A. Yes.

1 Q. What else do you remember?

2 A. Um, I just remember sitting, and then I just remember,
3 like, just sitting.

4 Q. You just remember sitting?

5 A. Yes.

6 Q. You don't remember anything else that happened?

7 A. Yes.

8 Q. That's it?

9 A. Um-hum.

10 Q. Okay. All right. Becky, that's all the questions I
11 have.

12 THE COURT: Thank you, Ms. Filo.

13 Cross-examination, Mr. Madden?

14 MR. MADDEN: Your Honor, we are going to take a
15 recess?

16 THE COURT: In about 15 or 20 minutes.

17 MR. MADDEN: Okay.

18 THE COURT: Are you doing okay?

19 THE WITNESS: Yes.

20 THE COURT: Okay. If you need a break, let me know
21 and I'll take a break earlier than what I said.

22 THE WITNESS: Yes.

23 MR. MADDEN: One moment, please, Your Honor. I
24 apologize.

25 THE COURT: That's fine.

26 CROSS-EXAMINATION

27 BY MR. MADDEN:

28 Q. Good morning, Becky.

1 A. Good morning.

2 Q. My name is Brian Madden. I'm Mr. Chandler's attorney
3 and I'm going to ask you some questions. Okay?

4 A. Yes.

5 Q. We've never met before; right?

6 A. I think -- I think no.

7 Q. I think you're right. All right.

8 Now, I would like to first ask you some questions
9 about Mr. Chandler's classroom. Okay?

10 A. Yes.

11 Q. Do you think you remember what the classroom looked
12 like? Where the students were, where your desk was, those
13 kinds of things?

14 A. No.

15 Q. Okay. Do you remember if the children were -- let me
16 stop. Strike that question, please. That means I want to
17 start over.

18 You were in what grade when you were in Mr.
19 Chandler's class?

20 A. Third.

21 Q. Third. Okay. There were also second-graders; right?

22 A. Yes.

23 Q. And did the third-graders sit on one side of the
24 classroom and the second-graders on the other?

25 A. I don't know.

26 Q. Okay. Were there four groups of children in Mr.
27 Chandler's class?

28 A. I don't know.

1 Q. Do you remember whether the groups were called tigers,
2 zebras, gorillas -- I'm forgetting the fourth one. Do you
3 remember?

4 A. Yes.

5 Q. Which group were you in?

6 A. Lyons, I think.

7 Q. Lyons. Okay.

8 So if you could imagine walking into Mr. Chandler's
9 class, the door would be in the back of the class; right?

10 A. I forgot.

11 Q. Let me see if I could help you. That was not helpful.
12 I'm sorry.

13 Do you remember where your desk was in the class?
14 What part of the class?

15 A. No.

16 Q. Okay. Sorry, Becky, I'm trying to find a picture that
17 will perhaps help you remember.

18 Okay. Let's start with a photograph that has
19 previously been marked A-1. Do you recognize that picture?

20 A. Yes.

21 Q. Do you know what recognize means?

22 A. Yes.

23 Q. All right. So the class door, when you went into room
24 18, if you went through that door, you would be looking or
25 walking in -- this is the back of the class; right?

26 A. Yes.

27 Q. And that's where Mr. Chandler's desk was, in the back of
28 the class?

1 A. Yes.

2 Q. Okay. And the door that's in this photograph that I'm
3 pointing to, the brown door with the words "expository
4 writing" on the door, where did that door go?

5 A. I think mostly that leads to the -- a classroom.

6 Q. Could you say that again but a little louder and a
7 little slower?

8 A. It leads to a classroom.

9 Q. Thank you. I have old ears. I don't hear so well.

10 So it leads to another classroom?

11 A. Yes.

12 Q. Do you know who the teacher was in that classroom?

13 A. No.

14 Q. Do you ever remember seeing that teacher come into Mr.
15 Chandler's classroom through that door?

16 A. No.

17 Q. Do you ever remember Mr. Chandler going through that
18 door into the other classroom?

19 A. No.

20 Q. Okay. You're not saying he didn't do that, you're just
21 saying you don't remember?

22 A. Yes.

23 Q. Okay.

24 MS. FILO: Objection, Your Honor. Misstates the
25 testimony.

26 THE COURT: Sustained.

27 MR. MADDEN: Thank you.

28 THE COURT: The answer is stricken.

1 BY MR. MADDEN:

2 Q. Now, I'm going to show you a photograph, A-13. Let me
3 get a pointer. So if what we were just talking about with
4 the last picture was the back of the class, would this
5 photograph with the white boards in it and the projector,
6 would that be the front of the class?

7 A. Yes.

8 Q. Okay. Now, I see you could see them on the ceiling
9 here, some appears to be animals hanging down. Looks like to
10 be tigers over here, looks like it might be lyons over here,
11 and maybe gorillas over here. Does that sound familiar?

12 A. Yes.

13 Q. Okay. And you think you were in what group?

14 A. The lyons.

15 Q. Okay. I'm not -- you think you might have been in the
16 lyons?

17 A. Yes.

18 Q. All right. But whether it was lyons or not, that would
19 mean at the time you were in Mr. Chandler's class, your desk
20 would be in the group that I'm circling with the marker,
21 which is what would be the group in the right, front corner
22 of the classroom; right?

23 A. Yes.

24 Q. Okay. And do you -- I'll tell you this photograph was
25 taken a few months after you were out of Mr. Chandler's
26 classroom. Okay?

27 A. Okay.

28 Q. So can you tell me, if you remember, where in this group

1 your desk was?

2 A. No.

3 Q. Okay. But you do remember that you were in the front of
4 the class?

5 A. Yes.

6 Q. Okay. Thank you.

7 Now, do you remember if -- when you were in Mr.
8 Chandler's class, do you remember what happened to children
9 when they got in trouble?

10 A. No.

11 Q. When I say got in trouble, I mean maybe not just
12 trouble. Maybe not turning in your homework, not doing your
13 homework, maybe being tardy?

14 A. No.

15 Q. You don't remember that?

16 A. No.

17 Q. Do you remember ever having to sit on a wall during
18 recess?

19 A. No.

20 Q. It looked like you were thinking about that for a
21 minute. You think maybe you had to sit on the wall one time?

22 A. Not me. Other people.

23 Q. Other people. But you do remember other people having
24 to sit on the wall?

25 A. Yes.

26 Q. Why did they have to sit on the wall?

27 A. I think when they don't do their homework.

28 Q. Okay. How about if they teased someone and made them

1 cry?

2 A. I don't know.

3 Q. You don't know?

4 A. No.

5 Q. Did you -- do you remember a time when you kind of got
6 in trouble for making your friend Jenny cry?

7 A. No.

8 Q. You don't remember having to sit on the wall because you
9 made her cry?

10 A. No.

11 Q. The kids who sat on the wall, that was during the
12 morning recess?

13 A. I think recess, yes.

14 Q. Yes. And what was the rule? That children who were
15 sitting on the wall had to sit there on the wall while the
16 other children were at recess; right?

17 A. Yes.

18 Q. The other children weren't allowed to talk with them;
19 right?

20 A. Yes.

21 Q. Okay. I'm going to move these so you'll be able to
22 leave, but not right yet.

23 THE COURT: Actually, Mr. Madden, I think this will
24 probably be a good point to take a morning recess.

25 MR. MADDEN: That will be perfect.

26 THE COURT: Okay. Thank you, ladies and gentlemen.
27 I will order all members of the jury to report to the jury
28 assembly room on the second floor. Please remember the

1 Court's admonition, not to discuss or form any opinion on
2 this case until it's finally submitted to you, and we'll be
3 in recess for about 15 minutes.

4 All members of the jury, you are excused.

5 MS. FILO: Your Honor, may we approach?

6 THE COURT: Yes.

7 (Whereupon, a brief recess was taken.)

8 THE COURT: Record will reflect all members of the
9 jury are present, both counsel are present, Mr. Chandler is
10 present in the courtroom, Becky is on the witness stand.

11 Mr. Madden, you were continuing with cross.

12 MR. MADDEN: I have no further questions at this
13 time.

14 THE COURT: Redirect, Ms. Filo?

15 MS. FILO: Thank you, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. FILO:

18 Q. Becky, you said that you don't have any memory of
19 talking to your mom about anything happening in Mr.
20 Chandler's class; is that correct?

21 A. Yes.

22 Q. You came to court once before. Do you remember that?

23 A. Yes.

24 Q. And you sat in a chair just like that?

25 A. Yes.

26 Q. And you testified?

27 A. Yes.

28 Q. And the judge was a lady judge?

1 A. Yes.

2 Q. Yes. And when you came and testified, you promised to
3 tell the truth; right?

4 A. Yes.

5 Q. And did you tell the truth?

6 A. Yes.

7 Q. Okay.

8 MS. FILO: Your Honor, at this time, I would like
9 to read from the preliminary hearing transcript page 31,
10 lines 13 through 28.

11 THE COURT: Okay. You may do so.

12 MS. FILO: Question --

13 MR. MADDEN: One moment, please, Ms. Filo. I'm
14 sorry. Which volume?

15 MS. FILO: It's Becky's testimony.

16 MR. MADDEN: Thank you. What page?

17 MS. FILO: Page 31.

18 MR. MADDEN: I got it. Thank you.

19 MS. FILO: "QUESTION: Okay. Why did you think --
20 why did you think: Hey, I need to talk to my mommy
21 about that?

22 "ANSWER: Because I don't think it was fun and I
23 don't think it was -- I don't think it was -- I
24 think it was inappropriate.

25 "QUESTION: You think it was inappropriate?

26 "ANSWER: You nodded your head.

27 "QUESTION: Did it make you feel bad to play the
28 game?

1 "ANSWER: Yes.

2 "QUESTION: Okay. So you thought you need to tell
3 an adult about this?

4 "ANSWER: Yes.

5 "QUESTION: Good for you.

6 "ANSWER: Because I tell everything to my mom, but
7 not my dad."

8 BY MS. FILO:

9 Q. Do you remember testifying to that?

10 A. Yes.

11 Q. Yeah? Was that all true?

12 A. Yes.

13 Q. So what was it that was not fun? What was it that you
14 thought that was inappropriate?

15 A. I can't remember.

16 Q. Okay. But when something is inappropriate, you tell
17 your mom?

18 A. Yes.

19 Q. Not your dad?

20 A. Sometimes.

21 Q. Sometimes?

22 A. Yes.

23 Q. Is your dad here in the courtroom today?

24 A. Yes.

25 Q. Is there something you don't want your dad to hear?

26 A. No.

27 Q. No? You're okay talking to your dad?

28 A. Yes.

1 Q. But you testified before that you didn't want your dad
2 to know?

3 A. I didn't say that.

4 Q. Well, you said, "I tell everything to my mom, but not my
5 dad"?

6 A. Um, I tell my dad sometimes.

7 Q. Okay. But you didn't tell him about what happened in
8 Mr. Chandler's classroom?

9 A. I don't know.

10 Q. Okay. Becky, has anyone told you to come to court today
11 and just say "I don't know" to every question we ask you?

12 A. No.

13 Q. Has anybody told you to say "I don't remember"?

14 A. No.

15 Q. Do you remember me coming to your house one time?

16 A. Yes.

17 Q. And I gave your mom and dad some papers?

18 A. Yes.

19 Q. And it made your parents really upset, didn't it?

20 A. Yes.

21 Q. In fact, your mom was crying; right?

22 A. No.

23 Q. You were crying?

24 A. Yes.

25 Q. Yeah? Why were you crying?

26 A. I don't know.

27 Q. You don't know?

28 A. No.

1 Q. But something about me being there and giving your
2 parents some papers made you cry?

3 A. I don't know. I can't remember.

4 Q. Okay. Nobody has told you that the best thing to do is
5 just forget about Mr. Chandler's classroom?

6 A. No.

7 Q. No? Okay. Thank you, Becky.

8 THE COURT: Recross, Mr. Madden?

9 MR. MADDEN: Nothing, Your Honor.

10 THE COURT: Okay. May she be excused?

11 MS. FILO: Subject to recall, Your Honor.

12 THE COURT: Okay. Thank you, Becky. You could
13 step down. You are excused, subject to recall. You could
14 leave. Thank you very much.

15 Do you have another witness, Ms. Filo, or --

16 MS. FILO: I could, Your Honor.

17 THE COURT: Okay. How long is your next witness
18 expected?

19 MS. FILO: Thirty minutes, maybe.

20 THE COURT: Okay. We'll call your next witness.

21 MS. FILO: People call Det. Sean Pierce.

22 DET. SEAN PIERCE, SJPD

23 Being called as a witness on behalf of the People,
24 having been first duly sworn, was examined and testified as
25 follows:

26 THE CLERK: For the record, sir, could you please
27 state your full name and spell both for the record.

28 THE WITNESS: Sean, S-e-a-n. Pierce, P-i-e-r-c-e.

1 THE COURT: Thank you, Detective.

2 Direct examination, Ms. Filo.

3 And, Detective, you may want to adjust that
4 microphone.

5 DIRECT EXAMINATION

6 BY MS. FILO:

7 Q. How are you currently employed?

8 A. I'm a police officer for the City of San Jose.

9 Q. How long have you been employed as a police officer for
10 the City of San Jose?

11 A. Seventeen years.

12 Q. How does one become a police officer with the City of
13 San Jose?

14 A. Well, there is a long testing process, and then if you
15 are selected, you go to a police academy. Once you are done
16 with the police academy, then you go to a field training
17 program.

18 Q. In that field training program, you ride with other
19 officers, or attached to other officers so you could learn
20 from them?

21 A. You are assigned an FTO, so you ride with that person
22 for I believe it's -- well, when I went through it, it was 16
23 weeks. I don't know what it is now.

24 Q. FTO is field training officer?

25 A. Field training officer, yes, you are assigned, and they
26 sit in the passenger seat, observe, and document everything
27 you do.

28 Q. So we think of police officers wearing uniforms and

1 coming to respond to 9-1-1 calls. You're currently a
2 detective; is that correct?

3 A. That's correct.

4 Q. And what do -- what unit are you assigned?

5 A. Child exploitation detail.

6 Q. How do you become a detective with the San Jose Police
7 Department?

8 A. They have a job opening and you put in your interest and
9 then they have a test.

10 Q. For how long have you been assigned to the child exploit
11 unit with the San Jose Police Department?

12 A. This is my second tour. I was in child exploitation
13 detail in 2001 to 2004, and now I have been in it since
14 November of 2011.

15 Q. What sort of training and experience do you have to have
16 in order to become a detective with the child exploit unit?

17 A. To become a detective you don't need any training.
18 Anybody can apply. You get all your training once you are in
19 the bureau.

20 Q. That's what I meant. What about that training?

21 A. Um, once you are in the bureau -- we're child
22 exploitation detail, but we're also a national task force,
23 Internet crimes against children task force. We're kind of
24 two, and we get training -- I mean, I've had hundreds and
25 hundreds of hours of training. We travel all over the
26 country for different training on interviewing, on Internet
27 crimes, and how to investigate the crimes.

28 Q. Could you give me an estimate in your career how many

1 hours of training you've had in the interviewing of child
2 victims of sexual assault?

3 A. Well, on-the-job training and in training, hundreds of
4 hours. I was also -- in between my two tours in child
5 exploit, I was attached to the Megan's Law detail, which also
6 works in the sexual assault unit, and we're on-call duties.
7 So on those on-call duties, we also handle the child exploit
8 cases.

9 Q. Approximately how many suspected victims of child sexual
10 assault have you had the opportunity to interview?

11 A. Hundreds. I have no idea what the count would be.

12 Q. So I also think of police officers as being kind of
13 clean-cut, almost military style. Why do you look like that?

14 A. We work with our Internet crimes against children task
15 force part of the unit. We work in an undercover capacity on
16 the Internet, and I currently work undercover cases, sting
17 operations on Craigslist, where we offer children for sale,
18 for sex, and we also buy children for sex through the
19 Internet. So that's why we have the undercover look.

20 Q. Det. Pierce, were you assigned to investigate a
21 suspected sexual assault child molestation case in January of
22 2012? The suspect was identified as Craig Chandler?

23 A. I do -- I was.

24 Q. How does a case come to be assigned to you? How does
25 that process work?

26 A. Well, on the child exploitation part of our unit, we are
27 attached to the sexual assault unit, which handles all sexual
28 assaults in the city. The child exploitation detail is a

1 four-man team, and we specifically handle only -- we call
2 them institutional cases. That would be any cases involving
3 teachers, priests, coaches, potential multiple victims, or
4 high-profile cases. So that's why we would get assigned this
5 particular case.

6 Q. Okay. Is that because of your sense of training and
7 experience?

8 A. Yes.

9 Q. When you got the call to respond to this case, what's
10 going through your mind as an investigator?

11 A. Well, when we got the case, the only thing we had was
12 that the suspect was a teacher. So we have a certain
13 protocol how we handle cases involving the potential of
14 multiple victims.

15 Q. What is that protocol?

16 A. We try to -- when there is multiple victims, we try to
17 interview everyone as soon as possible, everyone that could
18 be a victim as soon as possible. So in this instance, and
19 all of the other cases that we handle, we will send a team
20 out to wherever it is. It may be a school, a day care, a
21 church, and we'll send a team out there and we conduct all of
22 the interviews simultaneously with other detectives.

23 Q. Why?

24 A. We don't want to taint any of the interviews. If you
25 interview one kid and then two weeks later you interview
26 another kid. We like to interview them all at the same time
27 so no one has a chance to talk to each other.

28 Q. And to the best of your ability, did you do that in this

1 case?

2 A. Yes. I believe we interviewed -- the first day I think
3 there was about 40 kids interviewed.

4 Q. Were you able to go to the school, to O.B. Whaley, and
5 get a list of essentially all of the children that had been
6 students of Craig Chandler?

7 A. Yes.

8 Q. How did you then interview them all? What did you do?

9 A. So the way we handled this one is we make contact with
10 the principal of the school. They are made aware of the
11 situation in this case. They already knew. We arrange to
12 have a classroom setup so we could interview, and then my
13 sergeant coordinates the interviews. He would have the kids
14 go to each individual classroom which had a detective in that
15 classroom and then they would interview the child.

16 Q. So you said the first day you were able to interview
17 almost 40 children?

18 A. I don't know the exact number. I think there was a
19 total of 70. I think it was 77 children interviewed. A vast
20 majority was interviewed the same day.

21 Q. Okay.

22 A. It was a two-day process.

23 Q. And you had different detectives in different rooms?

24 A. That's correct.

25 Q. So to be able to interview as many people as possible at
26 the same time?

27 A. That's correct.

28 Q. If a child gave any information to you or to one of the

1 detectives that was suspicious, what was the protocol from
2 that point forward?

3 A. We had a list of questions that were asked to every
4 student, and if there was any disclosure, if the victim
5 disclosed any allegation against him, the interview was
6 stopped immediately, the parents were notified, and then the
7 child was transported to the Children's Interview Center.

8 Q. All of those interviews, to the best of your knowledge,
9 were recorded?

10 A. Yes, I believe so.

11 Q. Okay. You said if there was any disclosure, they
12 were -- those interviews were stopped and they were taken to
13 the Children's Interview Center?

14 A. That's correct.

15 Q. What is the Children's Interview Center?

16 A. The Children's Interview Center is an off-site office
17 building where we conduct interviews of children. Our
18 protocol is usually children under the age of 14. It's a
19 little bit better environment than bringing the child to a
20 police department. They don't feel intimidated. It's like a
21 house setting. There is stuff for them to do. There is
22 coloring books, stuffed animals, waiting room, a TV. They
23 are able to sit and watch TV before they get interviewed.

24 Q. The idea to try to make the child as comfortable as
25 possible?

26 A. That's correct.

27 Q. Does that facility have the ability to audiotape and
28 videotape interviews?

1 A. It does.

2 Q. Okay. So, for instance, yesterday we watched a video of
3 Isabell who was interviewed by you, was that taken at the
4 Children's Interview Center?

5 A. It was.

6 Q. Det. Pierce, you are responsible -- you are the
7 investigating officer assigned to this case; is that correct?

8 A. That's correct.

9 Q. So other officers will submit their reports to you?

10 A. Yes.

11 Q. And you create out of that sort of the master report?

12 A. That's correct.

13 Q. In this particular case -- strike that.

14 In most cases, when you bring over a case for
15 filing to the District Attorney's Office to file those
16 charges, does the police report go with the charges to the
17 court?

18 A. No. Like, you mean --

19 Q. I'm sorry. That's probably a bad question.

20 When you bring over a regular case, just your
21 average case, you bring over a charging sheet; right? An
22 issuing sheet?

23 A. Um-hum.

24 Q. Then you attach the police report to it?

25 A. Yes.

26 Q. And it's redacted to protect names and things like that?

27 A. Yes.

28 Q. And that entire packet goes to the court and becomes

1 part of the court file?

2 A. That's correct.

3 Q. In this case, were you asked to craft sort of an
4 abbreviated statement of the case to the court so that the
5 entire police report wouldn't even be on file with the court?

6 A. Yes, we did an abbreviated case.

7 Q. Det. Pierce, you have been to the O.B. Whaley campus?

8 A. I have.

9 Q. Many times?

10 A. Yes.

11 Q. Could you describe for me where Mr. Chandler's classroom
12 was in relation to the rest of the school?

13 A. It was in the back of the school, the very -- as you've
14 seen in some of the pictures, where you saw a picture of the
15 classroom, it says room 18. If you were to turn around,
16 there would be a fence to the neighborhood behind.

17 Q. Okay.

18 A. So the very back of the school.

19 Q. Okay. The classroom itself, there is actually somewhat
20 of -- I mean, a pretty good picture --

21 MS. FILO: Your Honor, if I may approach?

22 THE COURT: Yes.

23 BY MS. FILO:

24 Q. I think this is A-13. I see no windows in that
25 classroom. Are there any windows in the classroom?

26 A. There -- if you were facing -- if you open the door and
27 you are facing into the classroom, there are windows on the
28 right, but they are all covered.

1 Q. Okay. And is that what's pictured here in A-1?

2 A. That's correct.

3 Q. So there are windows up on the top. There are three
4 windows pictured in the top of A-1?

5 A. That's correct.

6 Q. Then there appears to be something below them, it's
7 white paper, and then the overlay on top of it are purple and
8 blue sort of diamond cutouts?

9 A. Yes.

10 Q. Are those windows?

11 A. Yes, they appear to be windows. You see on the bottom
12 there is actually a latch underneath the purple.

13 Q. These appear to be windows, but they are covered?

14 A. They are covered.

15 Q. These windows that are covered would have been at eye
16 level?

17 A. Yes.

18 Q. But these ones on top are not?

19 A. They are not.

20 Q. Were you -- you were not the evidence collector in this
21 case; right?

22 A. I was not.

23 Q. What is an evidence collector?

24 A. An evidence collector is someone that is responsible for
25 collecting any evidence on scene, and they would be -- I
26 believe is going to be the same person who took these photos,
27 or, if not, similar photos. So they would take photos and
28 then they do the collecting of the evidence.

1 Q. Okay. They are the designated -- they call them the
2 finder?

3 A. The finder, yes.

4 Q. They are responsible for collecting it, identifying it,
5 tagging it, booking it into evidence, those kinds of things?

6 A. That's correct.

7 Q. Okay. I just want to make sure that was not you?

8 A. It was not me, no.

9 Q. Were you involved in what was -- what pictures -- I'm
10 sorry -- what evidence was collected, were you -- did you
11 have any input on that process?

12 A. No.

13 Q. Okay. What about pictures taken? Did you have any
14 input on what pictures were taken?

15 A. No.

16 Q. You said that you used a standardized form; is that
17 right?

18 A. That's correct.

19 Q. Was the form created for this case or is this a general
20 form? Could you explain the form to me?

21 A. This is kind of a general form, but they are all
22 different based on the case. It was created by Sgt.
23 Lombardo, so he gets the allegations of the case and then he
24 will make a sheet of questions that pertain to this case that
25 they should be asked.

26 Q. Okay. You didn't by chance bring a blank one of those,
27 did you?

28 A. I don't -- I may have one in my briefcase.

1 Q. Okay. We'll get one.

2 MS. FILO: Your Honor, if I may? We'll get one
3 that is redacted.

4 BY MS. FILO:

5 Q. The interviews that you personally conducted at the
6 Child Interview Center, in all of those you used your
7 training and experience in interviewing those children; is
8 that correct?

9 A. That's correct.

10 Q. What are some of the guidelines about interviewing
11 children? What are some sort of the golden rules of
12 interviewing children?

13 A. Basically, we don't want to ask leading questions. We
14 let the child do the talking. We do have a -- we go by a
15 sheet of questions that might want to be asked, but they
16 don't pertain to every case.

17 Q. Okay. So the theory is that you're to let the child do
18 more talking than you are doing?

19 A. That's correct.

20 Q. Okay.

21 MS. FILO: Your Honor, I think that's all I have
22 with Det. Pierce at the moment.

23 THE COURT: Thank you, Ms. Filo.

24 Cross-examination on this area, Mr. Madden?

25 MR. MADDEN: Yes. Your Honor, I think my
26 cross-examination is probably going to take about 45 minutes.
27 I'm happy to begin it. Since we have another task to do, I
28 would -- at the recess -- I would like to have permission to

1 resume this afternoon or another time.

2 THE COURT: Ms. Filo, are you okay with that
3 process?

4 MS. FILO: That's fine with me.

5 THE COURT: At 1:30, are we going to do the reading
6 at that time or continue with cross?

7 MS. FILO: Your Honor, I actually have two
8 witnesses who are scheduled to be here at 1:30, civilian
9 witnesses. Maybe we could approach briefly.

10 (Whereupon, there was a discussion at the bench.)

11 THE COURT: As I understand it, both counsel do not
12 object to the witness's cross-examination being interrupted
13 as we address other witnesses and other issues.

14 Correct, Counsel?

15 MR. MADDEN: That's correct, Your Honor.

16 MS. FILO: Yes, Your Honor.

17 THE COURT: Okay. Thank you.

18 Ladies and gentlemen, what we're going to do is
19 we're going to recess at this time until 1:30. First, let me
20 order all members of the jury to report to the jury assembly
21 room at 1:30 on the second floor. The reason we're breaking
22 at this time is because I am going to have the lawyers go
23 over Becky's prior testimony that was given under oath at the
24 preliminary examination, and it's going to be that testimony,
25 or prior testimony is going to be read to you this afternoon.
26 So I want to make sure it's prepared and ready to go when we
27 return. Then we'll have two additional witnesses, and then
28 we'll see where we're at as far as recalling this particular

1 witness or recessing for the afternoon. We'll address that
2 this afternoon.

3 I wanted to explain to you as a courtesy the reason
4 we're breaking early so we could address that issue.

5 So, all members of the jury, you are excused at
6 this time. Remember to leave your notebooks on your chair or
7 any personal belongings. They will be there when you return
8 undisturbed.

9 (Whereupon, the jurors exited the courtroom.)

10 THE COURT: Jury's left the courtroom. I will
11 order both counsel and Mr. Chandler here at 1:30. We'll go
12 off the record.

13 (Whereupon, the Court took the noon recess.)
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2 THE COURT: Thank you, ladies and gentlemen.
3 Record will reflect all members of the jury are present, both
4 counsel are present, Mr. Chandler is present in the
5 courtroom.

7 MS. FILO: Thank you, Your Honor. The People call
8 Lyn Vijayendran.

10 Being called as a witness on behalf of the People,
11 having been first duly sworn, was examined and testified as
12 follows:

15 THE WITNESS: My first name is Lyn, L-y-n. Last
16 name is Vijayendran, V-i-j-a-y-e-n-d-r-a-n.

28 Direct examination.

1 MS. FILO: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. FILO:

4 Q. Ms. Vijayendran, were you the principal of O.B. Whaley
5 Elementary School in the 2011/2012 school year?

6 A. Yes, I was.

7 Q. How long had you been a principal of O.B. Whaley at that
8 time?

9 A. That was the my fourth year, I believe.

10 Q. Ms. Vijayendran, I want to ask you about Friday being
11 October 14th and a student of O.B. Whaley at that time named
12 Becky. Do you remember Becky?

13 A. Yes.

14 Q. Could you tell me up until October 14th how much
15 interaction you had with Becky's parents?

16 A. Um, a decent amount of interaction. She wasn't a
17 student that got in trouble, so I didn't see them in that
18 regard, but her mother -- actually, I don't know that I ever
19 met her father. Her mother was around school often
20 volunteering, helping out, things like that, walked her kids
21 to school in the morning.

22 Q. And Becky at that time was a student in Mr. Chandler's
23 class?

24 A. Correct.

25 Q. So on October 14th of 2011, did Becky's mother come to
26 you?

27 A. I don't remember if that's the exact date, but somewhere
28 in that range. She did come to me in the morning to talk.

1 Q. Okay. It was in the morning of that day?

2 A. Yes.

3 Q. So, Ms. Vijayendran, I'm going to show you a document,
4 which I'm going to ask the Court to mark as the People's next
5 in order.

6 THE COURT: That will be 3.

7 (Whereupon, People's Exhibit 3 was marked for
8 identification.)

9 MS. FILO: For the record, this appears to be three
10 pages of handwritten notes, and if I -- may I approach the
11 witness, Your Honor?

12 THE COURT: Yes. Thank you.

13 BY MS. FILO:

14 Q. Ms. Vijayendran, do you recognize those notes?

15 A. I do, yes.

16 Q. Whose handwriting is on the notes?

17 A. That's mine.

18 Q. And on the top of it it says "Friday, October 14th,"
19 yes?

20 A. Yes. To be honest, I think, if I remember correctly,
21 that was the day that she came to talk to me about. I
22 believe it was the following week, earlier in the week, that
23 she came to talk to me, but I'm not positive of that.

24 Q. Say it one more time.

25 A. I think that the Friday the 14th was the day that she
26 wanted to talk to me, but I believe it was the following
27 week, early in the week, that we actually had the
28 conversation.

1 Q. I understand that --

2 A. I'm not positive, but I think that.

3 Q. You think that when Becky came to talk to you, it was
4 sometime the week following October 14th?

5 A. That's how I remember it, but like I said, it was a long
6 time ago.

7 Q. Okay. So just for the jury's benefit, I have a copy of
8 those notes up on the screen.

9 So, Ms. Vijayendran, can you tell me how these
10 notes came to exist? What was the surrounding context?

11 A. Um, Becky's mother came to see me in the morning
12 requesting that her daughter get a new class, have a class
13 change. And when I asked her that's not -- you know, that's
14 not an unusual request, but not something we generally do,
15 what the circumstances are that was -- that made her come to
16 talk to me. She started explaining to me about an incident
17 that occurred with her daughter. This was just the mom and I
18 having a conversation at this time. So when I asked her to
19 get her daughter to come talk to me, these were the notes of
20 part of the conversation.

21 Q. Okay. To the best of your recollection, what was it
22 that Becky's mom told you about what had happened between her
23 daughter and Mr. Chandler?

24 A. That Becky had been in the room alone with him, and that
25 there had been -- she had her eyes covered and something was
26 put in her mouth.

27 Q. Okay. It was at that point where you said: I would
28 like to talk to Becky. I want to find out more about this?

1 A. Yes.

2 Q. Okay. So did Becky then come in and see you?

3 A. Yes.

4 Q. Was Becky already at school or was she at home or where
5 was she?

6 A. I'm not sure. This was in the morning before school
7 started. She was not in class. I don't know if she was --
8 I'm not sure.

9 Q. Okay. But it was before school had started?

10 A. Correct.

11 Q. So Becky came to you, and the notes that you took, you
12 took contemporaneous with your discussion with Becky; is that
13 right?

14 A. Correct. Yes, these notes are not everything that we
15 talked about, but they were being written throughout the
16 conversation, not after the fact.

17 Q. So you wrote -- I'm going to go through this and I want
18 to make sure that these are the things that Becky told you.
19 "Michaela told Becky, quote, Mr. Chandler needs you, and
20 Becky went to the room"?

21 A. Yes.

22 Q. Mr. Chandler said, "Ms. V. is going to come." Did the
23 children occasionally call you Ms. V.?

24 A. Yes.

25 Q. Vijayendran is kind of a mouthful. Okay: "Becky was
26 standing up. Mr. Chandler went in the closet and took out
27 the blindfold. It was blue with a black string band."

28 A. Yes.

1 Q. And those were the descriptions that Becky was able to
2 give you at the time?

3 A. Yes.

4 Q. "He handed you the blindfold. He went to the basket
5 where the balls and jump ropes are. He took a blue and white
6 blanket out of the basket. Becky put the blindfold on
7 herself after Mr. Chandler told her to."

8 So she referenced both a blue and white blanket and
9 a blindfold?

10 A. Yes.

11 Q. "Mr. Chandler said, quote, lie down on the floor right
12 there, end quote. And Becky did."

13 A. Yes.

14 Q. "Mr. Chandler took the blanket and put it over Becky's
15 head. Becky was wearing silver flats, and Mr. Chandler asked
16 her to take them off/took them off. Becky was able to
17 describe to you what she was wearing."

18 A. Yes. Throughout these notes, I was asking her
19 questions, and so that was probably a question that I asked
20 her.

21 Q. Okay.

22 A. But, yes, she was able to give me that description.

23 Q. Okay. "Becky's pants were capri sweatpants/pants
24 silverish gray." There is a star next to that. Is there any
25 reason for that that you could remember?

26 A. I have no idea. I'm sorry.

27 Q. Okay. That's okay.

28 "Becky told Mr. Chandler she was hot and he didn't

1 answer. Becky felt something gooey. She said it felt like
2 maybe it was his tongue on her feet," and then you list four
3 things: "The bottom of her foot, 20 seconds or so, then
4 Becky felt the same thing on her pants. She felt Mr.
5 Chandler moving and he told her to 'open your two legs,'" and
6 that's in quotes. So when Becky gave you quotes, some of
7 these descriptions you put them in quotation?

8 A. Yes.

9 Q. Those were her exact words?

10 A. If they are in quotations, yes.

11 Q. Okay. You then said, "Mr. Chandler lifted the blanket
12 up to about her nose, and then Becky felt something in your
13 mouth. First, Mr. Chandler said, 'I'm going to put something
14 in your mouth,'" and that's also in quotations?

15 A. Yes.

16 Q. And then in quotes, "First, he put the gooey something
17 in my mouth, then he wiggled my body back and forth and my
18 head." That's also in quotation?

19 A. Correct.

20 Q. "Becky felt some salty water in her mouth and then it
21 dripped out into her hand and her jacket. She wiped her hand
22 on her jeans. Mr. Chandler removed the blindfold and
23 blanket. Becky did not see where he put them."

24 Then you write, "The bell rang, Becky stood up.
25 Mr. Chandler opened the door, then walked to the sink and got
26 a damp paper towel. He cleaned up her pants, then he opened
27 a Wonka candy and put it in Becky's mouth. Becky then walked
28 back to her seat."

1 A. Yes.

2 Q. Could you remember anything else about the conversation
3 you had with Becky that day that is not reflected in these
4 notes?

5 A. Um, it's -- I don't recall the exact details of the
6 conversation at this point. This was the general outline of
7 the conversation. So each part of each of those parts were
8 quite a bit expanded. This was probably about a third of the
9 conversation, but the progression of events, this is how I
10 remember it.

11 Q. Okay. And do you know approximately how long it was
12 that your conversation with Becky lasted?

13 A. It was at least -- no, I don't remember. At least 45
14 minutes, I would guess.

15 Q. What was Becky's demeanor while she was talking to you?

16 A. She was the same as she usually was. She was friendly,
17 willing to talk. Um, I talked to her a lot, and her demeanor
18 was very similar to what it was every day that I saw her.

19 Q. Backtracking a little bit. When you spoke with her
20 mother, what was her mother's demeanor?

21 A. Her mother was -- I'm trying to think of the right word
22 to describe her. Her mother was a little bit anxious, not
23 overly upset by any means, but just kind of -- didn't like
24 the fact that her daughter was in the classroom by herself
25 with this teacher. Annoyed by it, perhaps.

26 Q. Ms. Vijayendran, there has been some discussion in this
27 case about the sweatshirt that Becky was wearing apparently
28 at the time that this incident with Mr. Chandler occurred.

1 Do you remember a discussion with either Becky or her mom
2 about this sweatshirt?

3 A. I do, yes.

4 Q. With whom did that conversation take place?

5 A. I think just with mom. I don't remember talking about
6 that with Becky.

7 Q. How did it come up with mom?

8 A. Um, mom said that that's how the conversation between
9 she and Becky had begun, was that there was a mark on the
10 sweatshirt and she asked -- when she was doing the laundry,
11 she asked Becky how that got there, and that's how -- when
12 Becky shared that she was in the classroom during recess.

13 Q. And did you actually see this sweatshirt?

14 A. I did.

15 Q. How did that come to happen?

16 A. The mom brought it to me to see.

17 Q. In response to your request or just on her own?

18 A. Just on her own.

19 Q. Did it still have this mark on it?

20 A. Um, it did. Yes.

21 Q. Do you remember where the mark was?

22 A. I don't recall now.

23 Q. Do you remember?

24 A. On the front somewhere.

25 Q. On the front. Okay.

26 Do you remember what it looked like?

27 A. No. It was a darker color, a hoodie, it was like a
28 zipped up hoodie sweatshirt.

1 Q. You mean what the sweatshirt looked like?

2 A. Yeah.

3 Q. Okay. So, Ms. Vijayendran --

4 MS. FILO: May I approach, Your Honor?

5 THE COURT: Yes.

6 BY MS. FILO:

7 Q. So I'm going to show you what's been marked as Exhibit

8 2. Does that look at all familiar to you?

9 A. It looks familiar, but I wouldn't be able to say that
10 that's the sweatshirt, to be honest with you. That would be
11 a common sweatshirt for lots of the kids at the school to
12 have.

13 Q. Okay. You remember it being dark in color?

14 A. I do, yes.

15 Q. Do you remember what the stain looked like?

16 A. It looked like spit.

17 Q. And big? Small? Could you give any estimate?

18 A. Quarter size, maybe.

19 Q. So --

20 A. Yeah.

21 Q. Quarter size?

22 A. Quarter, size of a quarter.

23 Q. And it looked like spit? Sort of whitish/clearish?

24 A. Yeah, like somebody had liquid in their mouth and then
25 it -- when it would spit out of their mouth, it made a little
26 mark.

27 Q. Okay. Anything else you could remember about your
28 conversation with Becky that you haven't told us about today?

1 A. No.

2 Q. Okay. And anything else about the conversation with her
3 mother that you could remember that I haven't asked you
4 about?

5 A. Um, no.

6 Q. Mom did ask that Becky be moved to a different
7 classroom?

8 A. Correct.

9 Q. And as the principal, do you have the authority to grant
10 those requests?

11 A. Yes, I do.

12 Q. Did you do that in this case?

13 A. I did.

14 Q. Ms. Vijayendran, after you had this conversation with
15 Becky, did you notify the police about what -- the police or
16 the Child Protective Services -- about what Becky had told
17 you?

18 A. No, I did not.

19 Q. Did that have anything to do with whether or not you
20 believed Becky was telling you the truth?

21 A. No. Are you asking if maybe I didn't believe her,
22 that's why I didn't call?

23 Q. Yeah. Did you have any reason to believe Becky was not
24 telling you the truth?

25 A. No. No, that was not the reason.

26 Q. Ms. Vijayendran, after you had this conversation with
27 Becky, did you tell Craig Chandler that he was not to have
28 students in his classroom alone, particularly blindfolded,

1 with the door closed?

2 A. I told him he was not to have students in his classroom
3 alone with the door closed blindfolded. And I told him if he
4 had students in his room alone doing work -- I highly
5 recommended he not have students in his room alone, but that
6 if he did, that they would be sitting at a desk working and
7 the door should be open.

8 Q. Thank you.

9 MS. FILO: Nothing further, Your Honor.

10 THE COURT: Thank you.

11 Cross-examination, Mr. Madden?

12 MR. MADDEN: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. MADDEN:

15 Q. Ms. Vijayendran, my name is Brian Madden. I'm Mr.
16 Chandler's attorney. We've never met before; right?

17 A. I don't believe so.

18 Q. All right. Now, I want to, if I can, establish what I
19 understand to be documents connected with your conversations
20 with Becky. Okay?

21 A. Okay.

22 Q. So we talked about one, which was up on the screen, and
23 this document has been previously marked as an exhibit by the
24 District Attorney. And it represents your handwritten notes
25 concerning your approximate 45-minute conversation with Becky
26 in mid-October in your office?

27 A. Correct.

28 Q. Mid-October of 2011?

1 A. I believe it was 2011. I'd have to look.

2 Q. I got the same problem sometimes. All right. I think I
3 have it right.

4 All right. So we've got handwritten notes. Now,
5 did you create any other notes of that conversation?

6 A. I did, the following January.

7 Q. All right.

8 A. I have -- there is a set of typed notes that I have.

9 Q. So if my math is correct, about three months later?

10 A. Yes.

11 Q. All right. That's the ballpark?

12 A. Yep.

13 Q. Okay.

14 MR. MADDEN: And, Your Honor, I would like to have
15 these marked as defense next in order. I believe Ms. Filo
16 has a copy.

17 THE COURT: That will be Defense C; is that
18 correct?

19 MR. MADDEN: I think we might be, I guess. Is that
20 C?

21 THE CLERK: It is C.

22 (Whereupon, Defense Exhibit C was marked for
23 identification.)

24 MR. MADDEN: I'm going to approach, if that's all
25 right, Your Honor?

26 THE COURT: Yes.

27 BY MR. MADDEN:

28 Q. I'm going to bring those in front of you, if I may?

1 A. Sure.

2 Q. I will ask you some questions about that shortly, but
3 let me compile the rest of the list. And then you testified
4 in a legal proceeding in either October or November of 2012;
5 correct, about this subject?

6 A. Um, yes.

7 Q. Okay. I think you were doing what I do sometimes, was
8 listening and reading at the same time?

9 A. I was thinking about the year you said, actually. But,
10 yes.

11 Q. All right. So let me ask the question again. You
12 testified at a legal proceeding on or about November or
13 October of 2012?

14 A. Yes.

15 Q. And you understand that there was a court reporter like
16 today, who was taking down notes; correct?

17 A. Yes.

18 Q. Have you ever read a transcript of your testimony at
19 that proceeding?

20 A. No.

21 MR. MADDEN: Okay. So I'm going to -- I have that
22 in front of me, and I would like this marked as defense next,
23 Your Honor.

24 MS. FILO: Your Honor, I'm going to object as it's
25 lacking foundation.

26 MR. MADDEN: I'm offering it as an exhibit. I'm
27 not offering it into evidence at this point.

28 THE COURT: Could counsel approach?

1 (Whereupon, there was a discussion at the bench.)

2 THE COURT: Based on the sidebar conversation, the
3 Court does not believe it's necessary to have the preliminary
4 examination transcript marked as an exhibit. So that request
5 will be denied.

6 MR. MADDEN: Thank you, Your Honor. One moment,
7 please.

8 May I approach, Your Honor?

9 THE COURT: Yes.

10 BY MR. MADDEN:

11 Q. I will not have this marked, but I'm going to provide
12 you with a copy of what I refer to at least a volume of it.
13 Okay? You don't have to read it. That's the good news.

14 So then would that be a complete catalog of the
15 writings on the subject of your conversations with Becky?

16 MS. FILO: Objection, Your Honor. Vague.

17 THE COURT: Sustained, because the transcript is
18 not her writings. It's her testimony. So I will sustain the
19 objection.

20 MR. MADDEN: I apologize, Your Honor.

21 THE COURT: That's fine.

22 BY MR. MADDEN:

23 Q. Let me rephrase the question.

24 The handwritten notes, your typed notes, and that
25 transcript recording of your testimony would be all of the
26 documents that would contain reference to your conversation
27 with Becky?

28 A. Um, I don't know whether that's true or not.

1 Q. There may be additional documents? I'm not trying to
2 trick you.

3 A. No. I don't know. I mean, I didn't write any other
4 documents that I could --

5 Q. Close enough. We could move along.

6 A. Okay. Thank you.

7 Q. I wanted to make sure we're complete.

8 THE COURT: So it's clear, the only documents you
9 generated was People's Exhibit 3 and the typewritten notes in
10 front of you, which is Defense C?

11 THE WITNESS: Yes.

12 THE COURT: Okay. To your knowledge?

13 THE WITNESS: Yes.

14 THE COURT: Okay. Thank you.

15 BY MR. MADDEN:

16 Q. So let's talk more about the typewritten notes, see if
17 we could flesh that out a little bit.

18 I believe you stated that you created the
19 typewritten notes sometime in January of --

20 A. 2012.

21 Q. -- 2012. Okay.

22 And you indicated in your previous testimony, if I
23 was hearing you correctly, that your handwritten notes
24 reflected maybe a third of what you discussed with Becky?

25 A. Correct.

26 Q. These are just little highlights that you are jogging
27 down during the conversation?

28 A. Yes.

1 Q. And would these typewritten notes, which appear to
2 consist of four single-spaced pages, be a much more accurate
3 and detailed statement of the conversation?

4 A. Um, I wouldn't necessarily say that, no. They are a
5 different set of notes. These were done later, so they were
6 done more from memory, but they are more detailed. So --

7 Q. Yes.

8 A. So I wouldn't say they are more accurate, though. No.

9 Q. Okay. You have read both of them prior to coming to
10 court today?

11 A. Right. Yes.

12 Q. Would you agree with me that there are differences,
13 material differences?

14 A. Yes.

15 Q. Between the two?

16 A. Yes.

17 Q. All right. So I'm going to ask you about those
18 differences at this point.

19 A. Sure.

20 Q. But not until I get my notepad. All right. I'm sorry.
21 I have to get one more.

22 I would like to first cover the subject of the word
23 "tongue." All right?

24 A. Okay.

25 Q. So the handwritten notes make specific reference to a
26 tongue; correct?

27 A. Yes.

28 Q. Did you address that subject in the notes?

1 A. In the typed notes?

2 Q. Yes.

3 A. Yes.

4 Q. And your typed notes on that subject are quite different
5 than the handwritten notes; correct?

6 A. The handwritten notes is the -- if I remember, I should
7 look back, but it's in quotation, I believe.

8 Q. Yes, please.

9 A. I'm trying to find that part. I apologize.

10 Q. I have the same problem. Take your time.

11 A. Okay. So it's not in quotations, but it says she
12 said -- so in the typed notes, it's expanded. There is more
13 of my conversation from again the -- from my memory.

14 Q. You are thumbing through a document now. Are you
15 looking at the typewritten notes?

16 A. Yes, I have both of them here.

17 Q. You have both of them in front of you?

18 A. Yes.

19 Q. All right. Let's talk about the expansion of that
20 subject. Please tell the ladies and gentleman of the jury
21 what you said in the typewritten notes about the subject
22 tongue?

23 A. She -- it's -- I don't think I do reference it in the
24 typed notes.

25 Q. I'm sorry?

26 A. I don't think -- I can't find it in the typed notes.

27 Q. All right.

28 A. Am I looking at the wrong --

1 Q. No. I think I may have misled you. I think we're going
2 to have to refresh your recollection having you look at your
3 testimony. So what I'm going to ask you to do --

4 MS. FILO: Your Honor, I'm going to object.

5 THE COURT: Hold on. The objection is sustained.
6 Mr. Madden, you asked her to refer to the typewritten notes.
7 She's done it. There is nothing in there.

8 MR. MADDEN: I understand that.

9 THE COURT: But I don't see any need to refresh her
10 recollection unless you ask her another question.

11 MR. MADDEN: Let me get to the part where I'm going
12 and I will jump ahead. You are correct, Your Honor. I
13 apologize.

14 BY MR. MADDEN:

15 Q. If you would turn to page 204 of that transcript.

16 MS. FILO: Your Honor, I'm going to object. There
17 is no question pending. There is no --

18 MR. MADDEN: I want her to read something, then I
19 will ask her questions.

20 MS. FILO: That's not how it works.

21 THE COURT: I will sustain the objection. Maybe we
22 could ask her the question first.

23 MR. MADDEN: All right.

24 BY MR. MADDEN:

25 Q. Do you recall clarifying with Becky whether or not the
26 object that touched her foot or her feet was a tongue?

27 A. Yes, I do.

28 Q. What do you remember about that?

1 A. That I -- she said that initially it felt like a tongue.
2 When I asked her: Do you think it was a tongue? She said,
3 no, she didn't think it was a tongue. It felt scratchy like
4 a tongue.

5 Q. So she told you after you questioned her about it that
6 it was not a tongue?

7 A. Correct.

8 Q. All right. That doesn't appear in your typewritten
9 notes, but it is in your memory and you're testifying about
10 it today and you testified about it on an earlier occasion;
11 correct?

12 A. Yes, that's from memory.

13 Q. All right. Is there any need for you to refer to the
14 transcript, or are you comfortable with your testimony, or do
15 you need to make sure?

16 A. I'm comfortable with it, but I looked at it as well.

17 Q. It's in the transcript; right?

18 A. Yes.

19 Q. All right. I apologize for misleading you and the
20 Court.

21 You made reference to the words "scratchy." You
22 said she said it felt scratchy like a tongue, but it wasn't a
23 tongue?

24 A. Correct.

25 Q. All right. And I think that you indicated that she felt
26 the same thing on her pants or her calf; is that correct?
27 This would again be on page 204.

28 THE COURT: Um, ma'am, if you would answer the

1 question, if you recall? If you don't, then we'll follow a
2 different procedure.

3 THE WITNESS: Okay.

4 THE COURT: Okay. I would ask you not to refer to
5 the transcript without letting us know. Okay?

6 THE WITNESS: Okay.

7 THE COURT: That's fine.

8 THE WITNESS: I already looked at that part. I
9 would not have remembered that from the conversation. It
10 does say that in the transcript. My apologies.

11 MS. FILO: Objection, Your Honor. I will ask that
12 testimony be then stricken.

13 THE COURT: The objection is sustained. The last
14 answer is stricken.

15 MR. MADDEN: Your Honor, I'm sorry. May we
16 approach?

17 THE COURT: Yes.

18 (Whereupon, there was a discussion at the bench.)

19 BY MR. MADDEN:

20 Q. I'm sorry, Ms. Vijayendran, let me rephrase the
21 question. I want to make sure I understand your position.
22 You really don't have a memory right now of the part about
23 something being scratchy?

24 A. No. The scratchy part I do remember. The part that I
25 had already looked, but I don't think I would have remembered
26 off the top of my head was the part of the calf, the second
27 part of your question.

28 Q. So if I did -- what I should have done, I should have

1 asked you if looking at that transcript might refresh your
2 recollection, but you already looked at the transcript?

3 A. Yes.

4 Q. And the transcript did refresh your recollection;
5 correct?

6 A. It's -- yes. It says that I referred to the calf.

7 Q. You read page 204 before I asked you to; right?

8 A. Yes.

9 Q. Okay. On that subject?

10 A. Yes.

11 Q. All right. I apologize. Now, by the way, in terms of
12 O.B. Whaley School, when you were there, which was for
13 approximately four years?

14 A. Correct.

15 Q. You were the principal for that period of time?

16 A. Yes.

17 Q. All right. Was there a dress code at O.B. Whaley?

18 A. Um, student?

19 Q. Student dress code?

20 A. Student dress code? A loose dress code, yes.

21 Q. Was it a combination of what clothes you were supposed
22 to wear, if you were to wear your own clothes, versus a
23 uniform?

24 A. It was optional uniform. At O.B. Whaley, most students
25 didn't wear it, so then --

26 Q. That was my next question.

27 A. Yeah.

28 Q. All right. So the uniform will be something like a

1 parochial school?

2 A. It was, yes. Navy and white.

3 Q. Okay. In terms of casual clothes, if you chose not to
4 wear a formal uniform, were girls allowed to wear -- what
5 were they supposed to wear?

6 MS. FILO: Objection, Your Honor. Relevance.

7 MR. MADDEN: I think it's relevant, Your Honor.

8 THE COURT: I'm going to sustain the objection.

9 BY MR. MADDEN:

10 Q. Were children -- were girls allowed to wear pants or
11 trousers to school?

12 A. Yes.

13 Q. Did they have to be a certain length below the knee?

14 A. Um, below the knee, no. They couldn't be very short
15 shorts.

16 Q. Okay. They could wear shorts?

17 A. Uh-huh, yes.

18 Q. But not short shorts?

19 A. Correct.

20 Q. And then what about the top? Blouses, they had to cover
21 the shoulders?

22 MS. FILO: Objection, Your Honor. Relevance.

23 THE COURT: Sustained.

24 MR. MADDEN: All right.

25 BY MR. MADDEN:

26 Q. Okay. With respect to your reference in the handwritten
27 notes to open your legs, you remember that reference?

28 A. Yes.

1 Q. All right. You see it?

2 A. Yes.

3 Q. Okay. And your handwritten notes, are your comments on
4 that subject different than on your handwritten notes?

5 A. In the typed notes, you mean?

6 Q. Yes.

7 A. Are they different? Again, the typed notes are expanded
8 from my memory compared with the handwritten notes, which
9 were being done while I was talking to the child. So, yes,
10 there are some differences.

11 Q. There is an expansion on that subject; correct?

12 A. Correct.

13 Q. And tell me what that expansion involved? You are
14 reading your typewritten notes now?

15 A. I am. Is that okay?

16 Q. Of course.

17 A. Okay. She told me, as it's in quotation, that he
18 initially -- he asked her to "open your two legs."

19 Q. Yes.

20 A. So I asked her some follow-up questions to that, and I
21 asked her -- I don't remember my exact words, but based on my
22 notes, to talk about that a little more, and then she said
23 that he asked her to move her legs. And I said: Which one
24 was it? Open your two legs or move your legs? And she said
25 she couldn't remember which one it was.

26 Q. But with respect to the legs, you distinctly recall her
27 giving two different statements about that?

28 A. Yes, she said she couldn't remember.

1 Q. But your handwritten notes don't reflect the second
2 statement, do they?

3 A. That's correct.

4 Q. But on the other hand, the handwritten notes only
5 reflect perhaps one-third of the entire conversation?

6 A. That's correct.

7 Q. All right. So that's a detail upon reflection when you
8 wrote your handwritten notes that you added; correct?

9 A. The typed notes?

10 Q. Yes. I'm sorry. Please forgive me.

11 A. Yes.

12 Q. And as the principal at that time interviewing the girl,
13 Becky, you thought there was a world of difference between a
14 directive to open your legs versus move your legs; correct?

15 A. Um, I think there are differences between those two,
16 yes.

17 Q. All right. And, in fact, you followed up to ask Becky
18 on that very same subject: Was he ever between your legs;
19 right?

20 A. I asked her if she felt anything between her legs.

21 Q. And she said?

22 A. No.

23 Q. Okay. With respect to the drink, did Becky talk about
24 the vessel from which the drink came from?

25 A. I don't -- I don't remember that clearly, what she said,
26 except that she was describing gooey.

27 Q. I'm sorry?

28 A. I don't remember exactly what she described in that part

1 of the conversation, but she was using the word "gooey."

2 Q. Do you think it might help refresh your recollection or
3 help you to remember if you were to look at your trial
4 transcript testimony on that subject?

5 A. Probably.

6 Q. All right. I'm going to ask you to read pages 207 and
7 208. Please do that now and take your time. Let me know
8 when you're done?

9 A. Okay.

10 Q. Does that help you remember the subject of a bottle?

11 A. It's pretty much how I remembered it, yes, that she used
12 the word "gooey" to describe it.

13 Q. I'm talking about the word "bottle." What did she tell
14 you about bottle?

15 A. Um, in the transcript it says that I said if I --

16 MS. FILO: Objection, Your Honor.

17 THE COURT: Sustained. We don't want you to read
18 the transcript. If it helps you remember, then you could
19 answer the question.

20 THE WITNESS: Okay. I don't remember the part of
21 that conversation that clearly, so --

22 BY MR. MADDEN:

23 Q. Do you remember Becky talking about a bottle
24 being gooey?

25 MS. FILO: Objection, Your Honor. Asked and
26 answered?

27 MR. MADDEN: No, it hasn't been, Your Honor.

28 THE COURT: Overruled. You may answer the

1 question.

2 THE WITNESS: I remember her using the word
3 "gooey," but the rest of the conversation at that point is
4 not that clear. I apologize.

5 MR. MADDEN: May I approach the witness, Your
6 Honor?

7 THE COURT: Yes.

8 MS. FILO: Counsel, could I see what you are
9 referencing?

10 MR. MADDEN: Sure.

11 BY MR. MADDEN:

12 Q. I would like you to re-read page 208, lines 3 through 7.

13 MS. FILO: Your Honor, I'm go object to the form of
14 the question.

15 THE COURT: Sustained.

16 BY MR. MADDEN:

17 Q. If you were to re-read the transcript, you think it may
18 refresh your recollection -- let me try that again.

19 Do you think that may refresh your recollection as
20 to the subject of a bottle?

21 MS. FILO: Asked and answered, Your Honor.

22 THE COURT: You could answer that question. If you
23 read it, will it help to review it again to refresh your
24 memory? It's yes or no.

25 THE WITNESS: No.

26 THE COURT: Thank you.

27 BY MR. MADDEN:

28 Q. These are your words; right?

1 A. Yes.

2 Q. This was your testimony; correct?

3 A. Yes.

4 Q. This testimony was given under oath; correct?

5 A. Yes.

6 Q. But you have no memory of using the word "bottle" to
7 describe the vessel from which the water came?

8 MS. FILO: Your Honor, objection. This is now --

9 THE COURT: Sustained.

10 BY MR. MADDEN:

11 Q. So let me ask you about Becky's demeanor during this
12 conversation. You knew Becky quite well; correct?

13 A. Yes.

14 Q. You were the principal, but I get the impression you
15 were a very active principal. You were out of your office a
16 lot?

17 A. I'd like to think so.

18 Q. All right. That's what your job is; right?

19 A. Yes.

20 Q. And you circulated among the classrooms, on the
21 playground, the lunch area?

22 A. Yes.

23 Q. You were available to the students?

24 A. Yes.

25 Q. You enjoyed interacting with the students?

26 A. Yes.

27 Q. You actually knew Becky pretty well, probably better
28 than you do a lot of the kids; right?

1 A. Yes.

2 Q. I take it, that was because she was a very friendly,
3 talkative, pleasant, curious child?

4 A. Yes.

5 Q. All right. She was never reluctant to speak with you?
6 I mean, on prior occasions?

7 A. No.

8 Q. She wasn't reluctant to speak with you on that morning?

9 A. No.

10 Q. She wasn't upset?

11 A. She didn't appear to be upset to me.

12 Q. All right. She wasn't crying?

13 A. No.

14 Q. She wasn't emotional at all?

15 A. No.

16 Q. That's correct?

17 A. That's correct.

18 Q. Okay. Thank you.

19 Would it be fair to say, it's the same as if we had
20 been in my office talking about what she was doing at her
21 yearly talent show?

22 A. Yes.

23 Q. Do you remember her perhaps when she came in giving you
24 a hug?

25 A. I don't remember that, but it's very likely because
26 that's often what she did.

27 Q. She was a hugger?

28 A. Yes.

1 Q. All right. And she hugged you a lot in the morning when
2 she was in line; right?

3 A. She would usually say good morning and sometimes a hug
4 with it, yes.

5 Q. Okay. And her demeanor was important to you during that
6 conversation; correct?

7 A. Yes.

8 Q. Why was it important to you?

9 MS. FILO: Objection, Your Honor. Relevance.

10 THE COURT: Overruled. You may answer that
11 question.

12 THE WITNESS: Answer it?

13 THE COURT: Yes.

14 THE WITNESS: Yes, her demeanor was important to me
15 because she -- I was trying to gauge what had occurred in the
16 classroom, and her demeanor, the fact that she was -- seemed
17 to be her happy, normal self, I took that into account when
18 trying to determine what had occurred.

19 BY MR. MADDEN:

20 Q. That was relevant to you?

21 A. Correct.

22 Q. All right. And when did you get your teaching
23 credential?

24 A. In 1998.

25 Q. All right. So you've been in the profession -- had been
26 in the profession for more than a dozen years then; correct?

27 A. Yes, about.

28 Q. I may be wrong on my math here.

1 During that time, you had reported other children
2 who you -- had reported people who you suspected of sexually
3 abusing children; correct?

4 A. Um, yes.

5 Q. All right. And part of your decision to do that was
6 because of the interaction you had with those other children;
7 correct?

8 A. Correct.

9 Q. In which they talked about what had or hadn't happened
10 to them; correct?

11 A. Correct.

12 Q. And, in fact, over that period of time, you had several
13 occasions to make formal reports of sexual abuse; correct?

14 MS. FILO: Your Honor, I'm going to object. May we
15 approach?

16 THE COURT: Yes.

17 (Whereupon, there was a discussion at the bench.)

18 BY MR. MADDEN:

19 Q. I want to ask you about another subject. I would like
20 to talk about the Helen Keller lesson plan. All right?

21 A. Okay.

22 Q. Is the Helen Keller story an appropriate story to be
23 telling second- or third-graders?

24 A. Yes.

25 Q. Why is it an appropriate story?

26 A. It's a commonly used story in that grade level.

27 Q. All right. So there is nothing unusual about a lesson
28 plan that involves the Helen Keller story; correct?

1 A. That's correct.

2 Q. By the way, with respect to lesson plans, generally at
3 O.B. Whaley, when you were the principal, were teachers
4 required to submit lesson plans to the administration?

5 A. No.

6 Q. So the teachers were on their own; correct?

7 A. They were expected to have them, but they didn't need to
8 submit them. Correct.

9 Q. All right. And the teachers basically -- it's not like
10 it's anarchy, but they have to teach to the standards;
11 correct?

12 A. Yes.

13 Q. And at that age, it involves principally language arts,
14 math, and what else?

15 A. Science, social studies, art, PE. Within each of those,
16 there is different strands.

17 Q. Okay.

18 MR. MADDEN: Your Honor, before I ask my next
19 question -- I apologize. We have to approach again. I need
20 a ruling before I ask that question.

21 THE COURT: Okay.

22 (Whereupon, there was a discussion at the bench.)

23 MR. MADDEN: I think I may be done, Your Honor.
24 Just one moment, please.

25 BY MR. MADDEN:

26 Q. I would like to talk about the stain that you saw on the
27 jacket. Okay?

28 A. Um-hum.

1 Q. Have you ever heard the term "mother shoulder"?

2 A. Yes.

3 Q. Do you recall ever using the word "mother shoulder" to
4 describe the stain that you saw on Becky's jacket?

5 A. I think it was used in the previous trial. I don't
6 remember if it was by myself or by somebody else, but --

7 Q. You have a baby now yourself; right?

8 A. I do, yes.

9 Q. All right. So tell me what you understand "mother
10 shoulder" to be?

11 A. Spit up.

12 Q. From a baby?

13 A. Yes.

14 Q. All right. And I apologize for the indelicacy what I'm
15 about to ask, but I want to ask you this. Are you familiar
16 with seeing a semen stain at anytime in your life?

17 A. Um, probably.

18 Q. All right. And if you think back on the stain that you
19 saw, you looked at it and you did not think it was a semen
20 stain, did you?

21 A. That's -- no, I did not.

22 Q. That's correct?

23 A. That's correct.

24 Q. Thank you.

25 MR. MADDEN: I have no further questions.

26 THE COURT: Okay. Ladies and gentlemen, we're
27 going to take the afternoon recess at this time. I'm going
28 to order the jury to report to the jury assembly room on the

1 second floor, and it's my expectation we'll call you up at
2 about 3:00 o'clock. I have to address some points and I'm
3 pretty confident we'll be able to call you back at 3:00
4 o'clock.

5 So please remember the admonition that I've given
6 you on prior occasions. You're excused at this time. We'll
7 call you back soon.

8 (Whereupon, the jurors were excused and the
9 proceedings were had outside the presence of the jury.)

10 THE COURT: Record will reflect the jury has left
11 the courtroom. Both counsel are present. Mr. Chandler is
12 present. We had a sidebar conversation concerning Ms. Filo's
13 concern and objection that the Court had previously ruled,
14 that she would not be allowed to ask Ms. Vijayendran about
15 her misdemeanor conviction.

16 And as I understand it, Ms. Filo, you felt, I
17 believe, that you should be allowed to go into that in light
18 of the fact that Mr. Madden had asked a number of questions
19 concerning her experience of having reported people in the
20 past, and the evidence is clear that she did not report in
21 this particular case. Generally, that's the subject we're
22 going to talk about; correct?

23 MS. FILO: Correct.

24 THE COURT: You may make some comments at this
25 time.

26 MS. FILO: Thank you, Your Honor. When counsel is
27 asking the witness: You've had an opportunity to report
28 before and that's based on your interaction with the child

1 and the way that the child was acting and your observations
2 of the child and you made these reports to law enforcement or
3 Child Protective Services in the past, what he's doing is
4 leaving the jury with the impression that she -- that nothing
5 is wrong with her failure to report, and that it somehow
6 reflects on the information that Becky gave her; that it is a
7 reflection of that information. And that is fundamentally
8 misleading to the jury.

9 First of all, that was her impression, and she has
10 unequivocally testified that when she finished her
11 conversation with Becky, she believed that this act was
12 sexual in nature. It was the first thing that she thought
13 of. It was that Mr. Chandler talked her out of that belief,
14 and she was convicted by a jury for failing to report the
15 information she was given.

16 So to suggest somehow that she's made all of these
17 reports in the past, knows how to do it, all of those sorts
18 of things is -- I can't imagine -- I think the jury has to be
19 told that this entire episode has been explored; that this
20 entire -- that the entire circumstances have been explored
21 and she was convicted for failing to report that. To suggest
22 that somehow she knows how to report, she has done it before,
23 that was all based on conversations and observations. I
24 think it's fundamentally unfair to leave the jury with that
25 impression without telling them that she's been criminally
26 convicted for failing to report these allegations.

27 THE COURT: Mr. Madden.

28 MR. MADDEN: Thank you, Your Honor. I disagree

1 with counsel. I understand her argument, but I want to
2 indicate in the clearest way that the purpose of my asking
3 her that question was simply to show that Becky's demeanor,
4 her demeanor, was inconsistent with the demeanor of children
5 who have been sexually abused.

6 In other words, my earlier questions that I asked
7 her on the subject, as a principal, as a teacher, we don't
8 have the specifics, but on several occasions I believe she
9 confirmed that she had reported. And on those occasions at
10 her prior testimony she indicated that those much greater
11 details, which has not been mentioned here at all, that those
12 children all had very similar demeanors. In other words,
13 they included such things as they were upset, they were
14 crying, they were withdrawn, they didn't want to talk about
15 it, they were afraid. All the things that are almost common
16 sense for any child who has been traumatized, as the People
17 are suggesting these five children were traumatized, as the
18 People are suggesting.

19 What I'm saying is that Becky's demeanor, and,
20 quite frankly, like the demeanor of almost all of these
21 children, is inconsistent with the demeanor of children who
22 have been sexually traumatized in horrible, horrible ways,
23 which is what the People are suggesting here.

24 THE COURT: Well, what about Ms. Filo's comment,
25 that she felt after talking with Becky she should report, but
26 she was talked out of it by your client?

27 MR. MADDEN: That was not her testimony, and I have
28 no objection to the Court reading her testimony on that

1 subject. That's a total misstatement of her testimony.

2 THE COURT: Her testimony of what?

3 MR. MADDEN: At her own trial.

4 THE COURT: Okay.

5 MR. MADDEN: That's -- she did not say that
6 Chandler talked her out of it. She said quite the reverse.
7 She said that she talked to Becky. She was directed to get
8 that -- to talk to Chandler. She gave Chandler next to no
9 information about the subject and had him in an open-ended
10 way, open-ended question, tell me about everything that
11 happened, and Chandler went into great detail.

12 I'm not asking her any of those questions. I'm not
13 going there, but what I'm saying is -- representing to the
14 Court, is that her decision about what to do in this case was
15 not made quickly or calmly or she changed her mind, like
16 Chandler got her to change her mind. She did, as all good
17 people who are properly investigating cases do, to keep an
18 open mind until she listens to both sides. When she heard --
19 after she talked to Becky at length on two separate occasions
20 and after she spoke with Chandler, she decided there was no
21 sexual component to the case at all.

22 So I vigorously disagree with Ms. Filo's
23 characterization of that testimony. If the Court's concerned
24 about it, I'm more than happy to have the Court read her
25 testimony on that subject.

26 THE COURT: My concern is that you talked about
27 Becky's demeanor.

28 MR. MADDEN: Yes.

1 THE COURT: That's fine. But then you went with
2 other victims that she talked to, or other people that she
3 interviewed, and then mandated -- and then reported it, quite
4 frankly. That's the problem I'm having, because now you are
5 bringing in other people, and she's reported those other
6 folks. So basically you're leaving the inference with the
7 jurors that she didn't report with this particular case
8 because it was her opinion that there was no sexual abuse.

9 MR. MADDEN: There is no need for the jury to hear
10 about her conviction on that subject. It's a simple matter
11 of: Here's my opinion. Here's what the child was. I've
12 seen children before who are abused. She was not acting like
13 an abused child. That's it.

14 THE COURT: Okay.

15 Ms. Filo.

16 MS. FILO: Right. But the only reason that's
17 relevant, the only reason it makes any difference is because
18 defense wants to suggest that that means she wasn't abused.

19 MR. MADDEN: No.

20 MS. FILO: That there was no reasonable inference
21 that she was abused. And my -- I mean, I will never forget
22 this as long as I live, Ms. Vijayendran's testimony, I asked
23 her at her trial: Ms. Vijayendran, are you telling me that
24 after you had this conversation with Becky, there was not a
25 thought in your mind that this was a sexual encounter? And
26 her specific answer, which I blew up on a PowerPoint and was
27 published by CNN, was: "I would have been crazy not to have
28 thought that." Those were her exact words in response to

1 that question.

2 So my concern now is that this whole idea of this
3 child acted differently than this child, that was the whole
4 purpose of Ms. Vijayendran's trial. Mr. Geffon, who
5 represented her, is sitting in court right here. I could
6 tell you that was his entire strategy, was that this child
7 acted fundamentally different than every other child. And
8 Mr. Madden is now trying to compare those two, and a jury has
9 rejected that comparison. I think it's unfair to leave this
10 jury with the impression that there was some -- that it
11 somehow reflects on whether or not Becky was or was not
12 molested.

13 THE COURT: Mr. Madden.

14 MR. MADDEN: I disagree with Ms. Filo. Mr.
15 Geffon's strategy was to basically throw Mr. Chandler under a
16 bus and suggest to the jury that somehow Chandler had
17 hoodwinked her. He had been able to convince her that black
18 was white. The jury rejected that strategy. It's my
19 position that Mr. Chandler did not molest Becky and that Ms.
20 Vijayendran's instinct was correct.

21 THE COURT: Her -- but that's inconsistent with
22 what Ms. Filo has just said. Her testimony was that --

23 MR. MADDEN: No, I disagree with her. And I --
24 again, I've got the transcript there. I have no objection to
25 the Court look -- it's is one thing to offer an opinion that
26 someone is not acting as an abused child. It's another for a
27 person who has had experience in reporting people for
28 sexually abusing children who has had several occasions of

1 familiarity with children who have been abused. Finding a
2 common thread and it's not here. That has nothing to do with
3 her trial.

4 THE COURT: The problem I have, Mr. Madden, we had
5 testimony from Ms. Filo's direct: Did you mandate -- I mean,
6 did you report? No. Then you went into Becky's demeanor.
7 Okay, fine. But then you went the next step and you started
8 the comparison with all of these other children.

9 MR. MADDEN: I think it's important to note that
10 she asked the question, "Did you report?" Why did she have
11 to ask that question? Once she asked the question "Did you
12 report," then I have to sit there and not respond?

13 THE COURT: Well, to me, it seems like it would
14 benefit your client, which is the point you were trying to
15 make, which is fine. But then you expanded it by doing this
16 comparison with other children, sort of thinking -- sort of
17 suggesting to the jurors that nothing happened here. That's
18 why I didn't report it. In other cases, it's obvious to me
19 my opinion and I would have reported it. Here, in my
20 opinion, there was sexual abuse going on. That's the
21 inference I have, and I don't believe the jury will have the
22 same one.

23 MR. MADDEN: I don't believe I have waived any
24 right to ask her about Becky's demeanor, and comparing that
25 to the demeanor of others who have been molested has nothing
26 to do with her conviction.

27 THE COURT: Well --

28 MR. MADDEN: Or her prosecution.

1 THE COURT: I mean, you are absolutely right. You
2 have the right to cross-examine, but then you take the risk
3 that other evidence that you don't want may come in. Now,
4 I'm concerned about bringing the conviction in. But I think
5 as an alternative remedy, we've already had testimony that
6 she said "I didn't report." We know she's a mandated
7 reporter, and I think that in fairness to the People, she
8 should be asked: After you spoke with Becky, should you have
9 reported? And the answer would be yes and we leave it like
10 that. Otherwise, I can't see how I could keep -- prevent the
11 people from bringing the conviction in because of the
12 inference that you left with the jury.

13 MR. MADDEN: Could you repeat that again, Your
14 Honor? I was thinking about something else while you were
15 speaking. I apologize to you.

16 THE COURT: I said as an alternative to allowing
17 the conviction coming in, leaving the unfair inference with
18 the jurors, is the question: After interviewing Becky,
19 should you have reported? And the answer would be yes, based
20 on her prior testimony from apparently the trial. And I
21 think that would be a fair remedy as opposed to bringing in
22 the conviction because I would like to avoid that.

23 Ms. Filo, your position on that.

24 MS. FILO: Your Honor, I will submit it to the
25 Court. I mean, I'm happy to use the witness's words herself.
26 I asked her in her trial, "Did you believe that this was
27 sexually in nature?" And her answer was, "I would have been
28 crazy not to have thought that."

1 THE COURT: I would prefer: After talking -- after
2 interviewing -- after interviewing Becky, should you have
3 reported? Yes. Because I think that is --

4 MR. MADDEN: I will submit the matter, but I want
5 the record to be clear that I believe that I was well within
6 my right to do it because Ms. Filo was allowed to ask the
7 question.

8 THE COURT: Did you report?

9 MR. MADDEN: Did you report, yeah.

10 THE COURT: Okay. Let me ask Ms. Filo one last
11 question.

12 MR. MADDEN: I think that's what opened the door
13 for me to -- from where I went.

14 THE COURT: Ms. Filo, am I correct in my
15 recollection that she was asked "Do you remember," and she
16 said no.

17 MS. FILO: That's correct, Your Honor. And Mr.
18 Geffon is here in court, and he's just commented to me that
19 his concern is that Ms. Vijayendran still believes that she
20 had an obligation, or that she was to investigate further
21 before making any decision about reporting. And ultimately,
22 that is what the jury cutoff, is that -- that opportunity is
23 what the jury in her trial really cutoff. Mr. Geffon is
24 here. Maybe he could explain it better than I can.

25 THE COURT: Cutoff?

26 MS. FILO: I think that the -- her argument in her
27 trial was that after she talked to Becky she should have
28 reported it, period. And that is ultimately what the jury

1 decided in that case. I think Ms. Vijayendran would still
2 believe today that she didn't do anything wrong by continuing
3 on her investigation and by talking to Mr. Chandler. So my
4 concern is asking her the question: Do you believe that you
5 should have reported after talking to Becky? I think to this
6 day she believes that she was right or had the obligation to
7 continue investigating. Even in light of the jury's verdict,
8 she would still believe.

9 THE COURT: I understand that, but I'm trying to
10 reach a middle ground here. But after talking to Becky, did
11 she believe she should report? Yes. The fact that she feels
12 she should investigate, that becomes a lot that we don't need
13 to hear in this particular trial.

14 Mr. Geffon, you are --

15 MR. GEFFON: Your Honor, I apologize for
16 interjecting. I realize you have enough lawyers to talk to,
17 but my concern is that knowing Ms. Vijayendran and what her
18 thinking was, if asked the question: Do you think that you
19 should have reported after talking to Becky, I believe her
20 answer would be no. And I think it's because she believed
21 that she didn't know what had happened yet. She went on to
22 do other things.

23 With all due respect to the People, I don't know if
24 the jury rejected the idea that she should have gone on with
25 her investigation, or if the jury simply decided: You know
26 what, even given the explanation that you heard, you should
27 have known that was not a realistic explanation. So I don't
28 know what the jury ultimately decided, but they clearly found

1 her guilty.

2 There is no question that Ms. Filo was correct,
3 that when she finished her conversation with Becky, she
4 believed Becky was describing a sexual act. That is
5 absolutely her testimony. But whether she should have
6 reported it at that moment, I think is -- unfortunately for
7 the Court's prospective ruling is a complicated question.

8 THE COURT: Suggestions?

9 MS. FILO: My concern is that Ms. Vijayendran did
10 believe it was a sexual act, and now Mr. Madden has asked her
11 a series of questions to suggest she didn't believe it was
12 sexual; that she didn't believe it was abuse. She had seen
13 victims of abuse. She knows what they look like. She knows
14 what they act like. She knows what they talk like. He left
15 them with the impression that she did not believe she was
16 dealing with victim of abuse when she unequivocally did think
17 that.

18 THE COURT: Well, then it sounds to me then the
19 question should be as an alternative to the conviction:
20 After interviewing Becky, do you believe she was describing a
21 sexual act?

22 MS. FILO: I'm fine with that.

23 THE COURT: I'm going to make that ruling over the
24 defense's objection as a less severe ruling of allowing the
25 conviction to come in because I don't think that should
26 occur.

27 And, you know, obviously, Mr. Madden, if you want
28 to put more on the record, you may do so, but it's clear this

1 is over your objection. But I think in fairness to the
2 People, I will allow that one question. Obviously, we have
3 evidence before the jury that she didn't report, and I think
4 counsel should use caution in what their questions are
5 because we're pretty close to letting more information in and
6 I would hope to avoid that.

7 So we're going to take a recess. We'll bring the
8 jury up at -- we'll call them up at ten after three.

9 (Whereupon, a brief recess was taken.)

10 THE COURT: We'll go back on the record. Record
11 will reflect that all members of the jury are present, both
12 counsel are present, Mr. Chandler is present, our witness is
13 on the witness stand.

14 Ms. Filo, redirect?

15 MS. FILO: Thank you, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. FILO:

18 Q. Ms. Vijayendran, I want to ask you a little bit about
19 the typed notes that you prepared. Could you tell me when
20 did you prepare these typed notes?

21 A. Sometime in -- excuse me -- sometime in January 2012.

22 Q. Okay. It was after Mr. Chandler's arrest in this
23 matter; is that true?

24 A. That's true, yes.

25 Q. And were you -- were you directed to write the notes, or
26 how did the notes come to?

27 A. I was asked by my school district to give an account of
28 what happened that day. And so, yes, I was asked to write

1 the notes.

2 Q. The things that are referenced in here -- I guess what
3 I'm trying to figure out is, do you have an independent
4 recollection as you sit here today of what's in these notes,
5 or are you relying on the notes themselves to tell you what
6 your memory was?

7 A. Some of both.

8 Q. Okay. Could you tell me, for instance, what in these
9 notes you do not have an independent recollection of as you
10 sit here now?

11 A. Are you talking about both sets of notes or specifically
12 the typed ones?

13 Q. No, just the typed ones. The handwritten ones were made
14 contemporaneous with your conversations with Becky?

15 A. Yes.

16 Q. The typed notes were something you prepared several
17 weeks later?

18 A. Yeah, correct.

19 Q. In those typed notes, are there things in there as you
20 sit here today you wouldn't remember?

21 A. Um, possibly. It's hard to say after I have already
22 seen them. I think I have an independent recollection of the
23 general outline of how things happened, but when it comes to
24 specific words, things like that, I may not have such a clear
25 memory.

26 Q. Okay. So these typed notes, they were just your
27 recollection in January of 2012?

28 A. I believe so. I'm not positive whether I had my -- I

1 don't remember exactly when I got the handwritten notes back
2 in my possession because I was not at school when this
3 occurred. So I believe this was just from recollection. I
4 didn't have these other ones in front of me, but I'm not
5 positive of that.

6 Q. Okay. And the handwritten -- so if you had to decide
7 between them, for instance, the handwritten notes or the
8 typed notes, what's in quotations, for instance, that would
9 be the exact words that Becky used?

10 A. Um, if it's in quotations, yes.

11 Q. Do you know why the school district asked you to prepare
12 these notes? Did they say anything to you?

13 A. Um, I don't remember exactly what the reason was. Just
14 other than trying to figure out what had occurred.

15 Q. Ms. Vijayendran, you left O.B. Whaley School in 2011 to
16 begin your first maternity leave; correct?

17 A. Correct.

18 Q. Do you know when you left the school?

19 A. I actually -- I would say it was probably beginning of
20 2012 when my actual leave started, but we have two weeks of
21 winter break before then. So it was the last -- you know,
22 around Christmastime in December we were on vacation. That
23 wasn't officially leave for me yet. Then my leave would have
24 begun that first day back at school, which was the Tuesday
25 probably after New Year's. I don't remember the day.

26 Q. So you were on campus up until the time that the break
27 started?

28 A. Yes.

1 Q. And when you -- do you remember where you were when you
2 made these typed notes? Were you at home?

3 A. At home.

4 Q. At home?

5 A. Um-hum.

6 Q. You said you don't remember if you had these handwritten
7 notes with you?

8 A. Correct.

9 Q. Did one of the officers come and interview you at your
10 home?

11 A. Yes.

12 Q. About the allegations in this case?

13 A. Yes.

14 Q. Did you tell those officers: You know, I have some
15 notes relating to my conversation with Becky, and I could
16 tell you where they are in my office?

17 A. I believe so.

18 Q. Do you know whether the officers -- or do you have any
19 memory of the officers bringing these notes to you?

20 A. I don't have any memory of that. No.

21 Q. Okay. Ms. Vijayendran, while you were talking to Becky
22 sometime after October 14th, when this conversation occurred,
23 when Becky is giving you information like, he told her to
24 spread his legs, or put something gooey in her mouth, when
25 she's using those words, is your concern that what Becky is
26 describing is an act of sexual molestation?

27 A. There were times that I was concerned that that was the
28 case, yes.

1 Q. At the time, did you have any other explanation for that
2 behavior?

3 A. No.

4 Q. Thank you.

5 THE COURT: Thank you, Ms. Filo.

6 Recross?

7 MR. MADDEN: Just a moment, please, Your Honor.

8 THE COURT: Yes.

9 RECROSS-EXAMINATION

10 BY MR. MADDEN:

11 Q. Ms. Vijayendran, turning your attention again to the
12 typed notes, that's four single-spaced pages; correct?

13 A. Correct.

14 Q. All right. And I believe you testified earlier that the
15 handwritten notes covered maybe one-third of your
16 conversation with Becky; correct?

17 A. That's an approximate guess, but, yes.

18 Q. Would you -- strike that.

19 Did your typed written notes attempt to cover 100
20 percent of the conversation with Becky?

21 A. Um, because it was based on recollection, I think it --
22 it was not possible to recover 100 percent, but I made an
23 attempt to include more.

24 Q. You attempted to write down everything that you
25 remembered and all of the details that you could remember?

26 MS. FILO: Your Honor, I'm going to object. May we
27 approach briefly?

28 THE COURT: Okay.

1 (Whereupon, there was a discussion at the bench.)

2 BY MR. MADDEN:

3 Q. Ms. Vijayendran, I just wanted to stay on the subject of
4 your writing this document. Was it your intent and was it
5 your purpose in writing this four-page document to accurately
6 describe the contents of your interaction and conversation
7 with Becky?

8 MS. FILO: Your Honor, objection. Relevance to
9 what her intent was.

10 THE COURT: Mr. Madden, I'll let you -- allow you
11 to reask the question. If you could just rephrase it.

12 MR. MADDEN: All right.

13 BY MR. MADDEN:

14 Q. Tell me -- I don't want to get into who directed you to
15 write it, but what were you trying to do in that report?

16 MS. FILO: Objection, Your Honor. Relevance.

17 THE COURT: I'll allow you to answer the question.

18 THE WITNESS: I was trying to write an account of
19 that particular day and what had occurred.

20 BY MR. MADDEN:

21 Q. In other words, a report; correct?

22 A. Correct.

23 Q. As opposed to your handwritten notes, which were
24 basically brief handwritten writings taken during the
25 conversation with Becky; right?

26 A. Correct.

27 Q. This was a more complete and thorough description of
28 that conversation or those conversations with Becky; right?

1 A. It was a more complete and hopefully thorough
2 description of the day in its entirety.

3 Q. All right. I'm referring right now to your conversation
4 with Becky and I'm limiting it to that. Okay?

5 A. Yeah.

6 Q. Is there anything else you would add to that?

7 A. No.

8 Q. I'm sorry. And when you wrote it, the events were
9 sufficiently fresh in your mind to where you felt comfortable
10 writing the report as accurate; correct, and complete with
11 reference to your conversations with Becky?

12 A. Based on my recollection at that time, yes.

13 Q. And at that time, did you believe you had a full and
14 complete recollection of your conversation with Becky in
15 October?

16 A. Um, I wouldn't say that I even then believed that I had
17 the entire conversation documented in this report because
18 there were things that I wasn't -- that weren't as clear in
19 my mind as time had passed, but I did my best to create a
20 report that based on my recollection had the details in it
21 that I remembered.

22 Q. And what you did write about your conversation with
23 Becky was in your mind at the time an accurate description?

24 A. Correct. If I didn't remember something, I didn't put
25 it in here.

26 Q. All right. Thank you.

27 THE COURT: Redirect?

28 MS. FILO: No, Your Honor. Thank you.

1 THE COURT: Okay. Ma'am, you may step down. You
2 are excused at this time, subject to recall.

3 MS. FILO: Thank you, Your Honor.

4 THE COURT: Could you hand me those documents,
5 please?

6 THE WITNESS: Yes.

7 MS. FILO: Your Honor, the People --

8 THE COURT: I was going to say your next witness.

9 MS. FILO: Lea Peery, Your Honor.

10 LEA PEERY,

11 Being called as a witness on behalf of the People,
12 having been first duly sworn, was examined and testified as
13 follows:

14 THE CLERK: For the record, ma'am, please state and
15 spell your first and last name.

16 THE WITNESS: My first name is Lea, L-e-a. Last
17 name is Peery, P-e-e-r-y.

18 THE COURT: Thank you. The lawyers are going to be
19 asking you some questions. Please let them finish the
20 question before you start your response. Make every effort
21 just to answer the question that is being asked. If the
22 question calls for a yes or no, please verbally say yes or
23 no. Finally, if you hear one of the lawyers say objection,
24 don't answer until I rule, and I will let you know if you
25 could answer the question or not. Okay?

26 THE WITNESS: Thank you.

27 THE COURT: Direct.

28 MS. FILO: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. FILO:

Q. Good afternoon, Ms. Peery. How are you presently employed?

A. I'm the principal of Cedar Grove Elementary School.

Q. Is that in the --

A. Evergreen.

Q. -- Evergreen School District?

A. Yes.

Q. Were you previously employed as the assistant principal at O.B. Whaley School in the Evergreen School District?

A. Yes.

Q. Were you employed in that capacity in the 2011/2012 school year?

A. Yes.

Q. Were you made aware of any allegations of impropriety in October of 2011 between a student named Becky and Craig Chandler?

A. No.

Q. When did you first become aware of that?

A. The day that I called Lyn, on January 9th.

Q. So you had not heard anything about that incident prior to January of 2012?

A. No.

Q. Okay. Ms. Peery, on January -- on or about January 9, 2012, did a woman named Luisana come into the front office?

A. Yes.

Q. Just so you know, we're not using her or her child's

1 last name.

2 A. Okay.

3 Q. Okay. So do you know what time Luisana came into the
4 office?

5 A. It was a little after the beginning of the school day,
6 so around 8:45-ish. We started at 8:30 at O.B. Whaley.

7 Q. What was Luisana's demeanor?

8 A. She was very upset. She was crying. She was pretty
9 emotional.

10 Q. What -- do you ask her what was going on?

11 A. Yes. I asked her what was wrong? What was the problem?
12 I had received a call before that on the walkie-talkie that
13 she had called the school, so I was heading to the office.
14 And she had been -- she was on her way, so I kind of knew
15 that she was coming, but I didn't know why. So when I asked
16 her what was wrong, then she started crying.

17 Q. What did she tell you?

18 A. She said that her daughter did not want to come to
19 school. She was scared to come to school. She didn't want
20 to. She wasn't like that before.

21 Q. Did she tell you why she was scared to come to school?

22 A. She said that -- she said that her daughter was
23 uncomfortable coming to school, and then she started
24 describing. She was crying, so she started describing why
25 she didn't want to come to school.

26 Q. What did she describe?

27 A. She said that the teacher put things in her mouth and
28 blindfolded her.

1 Q. When you heard that, did you say to her: Oh, no. Not
2 again?

3 A. No.

4 Q. What -- did she give you anymore information about what
5 Isabell had told her?

6 A. She was crying, and she said -- she started talking
7 about the teacher, saying: I want to go yell at him. I want
8 to go talk to him. She was more -- she was talking back and
9 forth about what -- Isabell was upset. She didn't want to
10 come to school: I'm upset, you know, but she didn't -- could
11 you rephrase that? I think I lost my train of thought there.
12 I'm sorry.

13 Q. I think you got it. That's okay.

14 What did you do in response to Luisana coming in
15 and telling you what had happened between Isabell and Mr.
16 Chandler?

17 A. I asked her to go and get -- go get her daughter. Could
18 I use her first name?

19 Q. You can.

20 A. Go get Isabell so I could talk to her because I wanted
21 to find out exactly what was going on from Isabell. And so
22 she said okay. So she was going to go back and get her. And
23 then I was telling her that I was going to have the assistant
24 principal at -- the acting assistant principal come in and
25 assist with interviewing Isabell, and then I was going to
26 contact the district office with her concerns.

27 Q. Did you, in fact, interview Isabell or talk to Isabell
28 that morning?

1 A. Yes.

2 Q. What did Isabell tell you?

3 A. Isabell said that she would have to -- she stayed in at
4 recess and had a blindfold on her and that she would have to
5 have things puts in her mouth, different things.

6 Q. What was she like when she was describing this to you?
7 Isabell?

8 A. She seemed comfortable, but I had a relationship with
9 her and her brother, you know, at school, so she seemed --
10 she didn't seem nervous. She seemed comfortable talking with
11 me.

12 Q. She said that she was blindfolded and some things were
13 put in her mouth. Did she describe to you what those things
14 were?

15 A. She said that she had to move her tongue around, and
16 then when Mr. Lara -- Mr. Lara was taking the notes and I was
17 asking the questions and the school psychologist came in the
18 middle. And I asked her briefly: Did it only happen once?
19 And then she remembered, well, it happened another time, and
20 she said -- I asked her: What did it -- what did it feel
21 like? I think I asked that question. And she said it -- it
22 was big and round. That was it.

23 Q. Luisana had described her daughter as being scared and
24 upset. By the time you talked to her, was she scared or
25 upset, or did she appear that way to you?

26 A. She wasn't. She did not appear scared. She seemed a
27 little -- possibly nervous, you know. She was in the
28 principal's office, so she'd never been in the principal's

1 office before for any reason.

2 Q. Isabell, was she a problematic student in any way?

3 A. No, not at all.

4 Q. Do you remember her having any attendance problems at
5 school?

6 A. No.

7 Q. Never been a discipline problem or anything like that at
8 the school?

9 A. No.

10 Q. Mr. Chandler ever report to you that she was causing
11 trouble in class?

12 A. No.

13 Q. Would that have been inconsistent with the child and
14 student that you know Isabell to be?

15 A. Repeat that, please.

16 Q. Sure. If someone had reported that she was problematic,
17 would that be inconsistent with the child and the student
18 that you know Isabell to be?

19 A. Yes.

20 Q. Okay. Ms. Peery, do you all keep records of attendance
21 at -- did you all keep records of attendance at O.B. Whaley?

22 A. Yes.

23 MS. FILO: Your Honor, I would like to have marked
24 as People's next in order, one-page document that is entitled
25 "PowerSchool Daily Attendance."

26 MR. MADDEN: Is that for Isabell?

27 MS. FILO: Yes.

28 MR. MADDEN: It's already an exhibit.

1 MS. FILO: Is it?

2 MR. MADDEN: It's Defense A.

3 MS. FILO: Oh.

4 THE COURT: It is Defense A. There is attendance
5 record, which was marked Defense A, involving Isabell.

6 MR. MADDEN: I'm assuming it's the same.

7 THE CLERK: It's B, Your Honor.

8 THE COURT: That's A-1 through 13.

9 MR. MADDEN: I'm sorry.

10 THE COURT: You're right. It's B.

11 MR. MADDEN: I apologize.

12 THE CLERK: Do you have it in your possession
13 because it's not here?

14 MR. MADDEN: I'm not saying it's not possible. If
15 you don't have it, I'm a likely suspect. Why don't you mark
16 your copy as Defense A, substitute it. If you need another
17 one, I will get you one.

18 THE COURT: Well, could you take a look? I don't
19 want to --

20 MR. MADDEN: I don't want to waste the Court's
21 time. I won't have it handy. I have no intention of
22 referring to it this afternoon.

23 THE COURT: Yeah, but it's a court exhibit.

24 MR. MADDEN: I know.

25 THE COURT: Hold on. We'll go off the record.

26 (Whereupon, there was a discussion off the record.)

27 THE COURT: We'll go back on the record, and Ms.
28 Filo has Defense Exhibit B, which is the same document?

1 MS. FILO: Yes.

2 THE COURT: Okay.

3 MS. FILO: Well, actually, if I could have just a
4 minute, Your Honor?

5 THE COURT: Yes.

6 MS. FILO: May we approach briefly, Your Honor?

7 THE COURT: Yes.

8 (Whereupon, there was a discussion at the bench.)

9 THE COURT: Based on our sidebar conversations,
10 counsel has asked and are prepared to stipulate that, Ms.
11 Filo, you have an exact copy of Defense B, which has been
12 marked. And both counsel stipulate that your copy could be
13 substituted in as Defense B, and that will be the new Defense
14 B, but it's basically an identical copy; correct?

15 MS. FILO: Thank you, Your Honor.

16 THE COURT: Mr. Madden, you stipulate to that?

17 MR. MADDEN: I do, and thank you.

18 THE COURT: Okay. So we'll make the exchange. Do
19 you have the --

20 MS. FILO: I've already done that.

21 THE COURT: -- first B?

22 MS. FILO: It's gone to counsel.

23 THE COURT: If you'd give it to our clerk, please.
24 Thank you.

25 You may proceed.

26 MS. FILO: Thank you. May I approach, Your Honor?

27 THE COURT: Yes. Thank you.

28 ///

1 BY MS. FILO:

2 Q. Ms. Peery, what is this document that I'm handing you?
3 Do you recognize that?

4 A. It's the attendance log that we use for SAR meetings to
5 monitor attendance.

6 Q. What meetings?

7 A. SAR meetings. It's the school advisory -- it's a
8 meeting -- let me put it in general terms. We meet if there
9 is excessive tardies. If there is a certain amount of
10 excessive tardies, the parents are notified, so it's an
11 attendance log.

12 Q. Okay. Do you know whether or not Isabell was ever the
13 subject of any sort of meeting with respect to her attendance
14 at school?

15 A. I know that there is a certain criteria, and if they hit
16 that criteria, she could have received a letter in the mail
17 about that.

18 Q. Okay. So I just want to make sure that I'm reading the
19 document right. An "L" indicates tardy; is that correct?

20 A. Yes. Unexcused tardy.

21 Q. Okay. So we have one, two, three, four, five, six
22 unexcused tardies in the time period from January -- I'm
23 sorry -- August 15th to January 1; is that correct?

24 A. Yes.

25 Q. Six?

26 A. Yes, that's it. And then -- but the ones that we report
27 on are past 30 minutes, and I don't see any. I see one "N."
28 So she wouldn't have met -- you need three N's before you --

1 when you first get the letter.

2 Q. Okay. So in her second week of school, she had an "N",
3 which meant she was more than 30 minutes late to school?

4 A. Yes.

5 Q. So she had -- so I guess in fairness, it's one, two,
6 three, four, five, six, seven total tardies in four months of
7 school?

8 A. Yes.

9 Q. Okay. Anything as a principal that you find
10 particularly alarming about that number of tardies?

11 A. No.

12 Q. And the "L," the unexcused tardy, that "L" could be that
13 the student was three minutes late to school?

14 A. Yes.

15 Q. Okay. Ms. Peery, you are aware, are you not, that the
16 school district has been the subject of civil litigation as a
17 result of the allegations in this case?

18 A. Yes.

19 Q. So the school district itself has been sued?

20 A. Yes.

21 Q. Could you remember anything else about your
22 conversations with Isabell that day that you haven't -- that
23 I haven't asked you?

24 A. I think I told you everything that she said.

25 Q. That you could remember?

26 A. That I could remember.

27 Q. Okay.

28 MS. FILO: That's all the questions I have.

1 THE COURT: Cross, Mr. Madden?

2 MR. MADDEN: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. MADDEN:

5 Q. Is it pronounced Ms. Peery or Ms. Peery?

6 A. Peery.

7 Q. Thank you.

8 Ms. Peery, my name is Brian Madden. I'm Craig
9 Chandler's attorney. You're obviously familiar with how the
10 attendance records are kept?

11 A. Yes.

12 Q. All right. Could you tell me at the time of these
13 incidents, is there a bell in the morning at a certain time
14 to start school?

15 A. Yes.

16 Q. And do you know what time that would be?

17 A. It was -- I believe it was 8:30.

18 Q. Okay. And then for purposes of attendance, is there
19 another period of time that follows that where there is
20 another bell?

21 A. No.

22 Q. Okay. Is there any significance to the time 8:45 a.m.
23 concerning attendance or tardies?

24 A. Teachers are supposed to use their discretion on tardies
25 as far as students. Since we're a walking school, Whaley was
26 a walking school, some students would come in a couple
27 minutes later and some teachers would mark them tardy two
28 minutes late and some teachers would not. So the 15 minute

1 -- normally, 15-minute tardies are already logged in by most
2 teachers.

3 Q. I think I understand what you said, but I'm going to ask
4 more questions to make sure that I do.

5 A. Okay.

6 Q. So actually, if you were 30 seconds late, you're
7 technically late?

8 A. You are late.

9 Q. I'm sure there are no teachers at O.B. Whaley that give
10 children a 30-second tardy; right? Not in your experience?

11 A. Not in my experience.

12 Q. All right. But I'm assuming, then, that the individual
13 teachers are free to make their own decisions about calling
14 in tardies when students arrive sometime after 8:30, but at
15 or before 8:45?

16 A. The students at O.B. Whaley would come into the front
17 office, get a tardy slip, and then have to walk to their
18 classroom at the actual time they arrived at school, which
19 then at that point, if the attendance was already put in the
20 system -- let's say she got there at 8:40, ten minutes late,
21 and if the teacher had already marked her tardy, then the
22 secretary has to change it on the time. Is that what -- I
23 might be unclear.

24 Q. I think it may be me.

25 A. Okay.

26 Q. I think I'm going to try to ask some different
27 questions. How did teachers keep track of tardies?

28 A. They log into PowerSchool, and this is the document that

1 they have. So some teachers might log in two minutes, some
2 might log in five minutes.

3 Q. So the way that they report tardies is through their
4 computers?

5 A. Yes.

6 Q. Okay. But the teacher has an option, if he or she
7 wants, not to give -- not to enter late into a computer any
8 time up to 8:45; correct?

9 A. I believe it was 8:45, yes.

10 Q. So more softhearted teachers may wait a longer period of
11 time than others; correct?

12 A. I don't know if it would be considered softhearted, but
13 some would, you know.

14 Q. Fair enough. I agree. But that was a subjective call
15 by the teachers as to what time during that 15-minute window
16 you would type in late?

17 A. Yes.

18 Q. But in no event was it to be later than 8:45, because at
19 8:45 your attendance records need to be entered; correct?

20 A. That's what we asked.

21 Q. Okay. At least that was what they were supposed to do?

22 A. Yes.

23 Q. Okay. So it's possible that even though a student has
24 entries of unexcused tardies, official ones, there may have
25 been other times when a student was tardy somewhere in the 15
26 minutes or less, and it wasn't entered because teachers had
27 authority not to enter it?

28 MS. FILO: Objection, Your Honor. Calls for

1 speculation.

2 THE COURT: Sustained.

3 BY MR. MADDEN:

4 Q. All right. Would it be fair to state that the printout
5 that you have -- is that in front of you?

6 A. Yes.

7 Q. All right. Nothing more than a reflection of the actual
8 tardies typed in by a teacher?

9 A. Yes.

10 Q. But it doesn't necessarily mean that there weren't other
11 tardies that were not entered into; correct?

12 A. The teachers are responsible for entering the tardies.
13 So from this document, it looks like she was only absent -- I
14 mean, only tardy.

15 Q. According to the official calendar?

16 A. Exactly.

17 Q. Okay. So I want to make sure I understand your
18 testimony. Isabell seemed comfortable when she spoke with
19 you?

20 A. Yes.

21 Q. She didn't seem nervous?

22 A. She seemed comfortable speaking with me. She seemed a
23 little nervous about being in the principal's office.

24 Q. Just because she was there?

25 MS. FILO: Objection, Your Honor. Calls for
26 speculation.

27 THE COURT: Sustained.

28 ///

1 BY MR. MADDEN:

2 Q. All right. Her mother, on the other hand, was much more
3 than nervous; correct?

4 A. Yes.

5 Q. Angry?

6 A. She was emotional; she was worried.

7 Q. I'm sorry, I cut you off. Please finish.

8 A. She was worried.

9 Q. Did she ever use profanity in your presence concerning
10 her interaction with you that morning?

11 A. Yes.

12 Q. And that would imply or strongly suggest that she was
13 angry; correct?

14 A. She was upset, yes.

15 Q. Difficulty accepting the word "angry"?

16 A. Well, she was emotional, she was crying, she was -- she
17 wasn't yelling. She did use profanity.

18 Q. At you?

19 A. Not towards me.

20 Q. Towards whom?

21 A. Towards -- she was towards the teacher. She was upset.

22 Q. Okay. With respect to your conversation with Isabell
23 concerning the number of times that this occurred, she first
24 told you it happened one time; correct?

25 A. Yes.

26 Q. And then she gave you a different response or
27 contradictory response after that?

28 A. She was being interviewed by myself and Mr. Lara and

1 then the psychologist came in the middle, so she went back
2 and reviewed the beginning again. And then I asked: Did it
3 only happen once? And then she -- that's when she continued.
4 So she stopped and went back to the beginning because the
5 psychologist arrived later and then finished.

6 Q. So when she went back, she said it happened another
7 time?

8 A. After I said "Did it only happen once," she said -- um,
9 that's when she said: No. There was another time. And that
10 was I believe -- yeah.

11 Q. All right. So she gave you two responses: One response
12 was one time, and the second response was in effect that it
13 happened two times?

14 A. Yes.

15 Q. Okay. Thank you.

16 MR. MADDEN: I have no further questions, Your
17 Honor.

18 THE COURT: Thank you.

19 Redirect, Ms. Filo?

20 REDIRECT EXAMINATION

21 BY MS. FILO:

22 Q. Ms. Peery, you said that Isabell was nervous about being
23 in the principal's office. How did you know that it was the
24 location that was making her nervous, or do you know?

25 A. I don't. She didn't verbalize she was nervous about
26 being in the principal's office, but she just seemed -- not
27 scared, but she seemed uncomfortable, a little uncomfortable.

28 Q. Okay. Is it equally as possible that she was nervous

1 about the subject matter?

2 A. Yes.

3 Q. Ms. Peery, do you know who Isabell's friends were at
4 school? Do you know who she palled around with at school?

5 A. I knew a few of the girls.

6 Q. Could you give me their names?

7 A. She -- it's been a while. I know there was a little
8 girl that she used to hang around with Laurie, and that's the
9 only one I could remember right now.

10 Q. And what about Becky? Do you know Becky?

11 A. Yes.

12 Q. And were Becky and Isabell friends that you saw?

13 A. I really didn't notice that.

14 Q. Never saw them palling around together at school?

15 A. No. Becky had another group of girls that she was
16 really, really close to.

17 Q. Okay.

18 MS. FILO: Your Honor, could I just have a moment?

19 THE COURT: Yes.

20 MS. FILO: I think that's all I have, Your Honor.

21 THE COURT: Recross, Mr. Madden?

22 MR. MADDEN: Nothing, Your Honor.

23 THE COURT: May this witness be excused?

24 MS. FILO: Yes, Your Honor.

25 MR. MADDEN: Yes.

26 THE COURT: Okay. Thank you, ma'am. You are
27 excused and free to leave. And if you could hand me that
28 document, please. Thank you.

1 MS. FILO: Your Honor, could I just have one minute
2 with her?

3 THE COURT: Of course.

4 MS. FILO: Thank you, Your Honor.

5 Your Honor, at this time by stipulation, the People
6 would submit a reading to the jury of Becky's preliminary
7 examination hearing.

8 THE COURT: Okay. You have your reader?

9 MR. MADDEN: Before we start, may we approach the
10 bench briefly?

11 THE COURT: Of course.

12 (Whereupon, there was a discussion at the bench.)

13 THE COURT: We'll go back on the record. Ms. Filo,
14 it's my understanding that you have a reader?

15 MS. FILO: I do.

16 THE COURT: If you'd come forward and take the
17 witness stand. And could you state your name for the record?

18 THE READER: Soula Ellenikiotis.

19 THE COURT: Could you spell it, please?

20 THE READER: S-o-u-l-a. E-l-l-e-n-i-k-i-o-t-i-s.

21 THE COURT: Thank you.

22 And, Ms. Filo, as you know, I want to remind you if
23 you could read slowly after the answer is given, pause
24 briefly, then the next question. And as I understand it,
25 your reader is going to be reading the testimony of Becky?

26 MS. FILO: Correct.

27 THE COURT: And you'll be asking the questions as
28 the prosecutor?

1 MS. FILO: Thank you, Your Honor. And I'm happy to
2 stipulate that the transcript itself could be used and that
3 it not need be reported.

4 THE COURT: Mr. Madden?

5 MR. MADDEN: So stipulated.

6 THE COURT: Well, pursuant to a stipulation, then
7 we won't have it recorded. We'll mark it as an exhibit,
8 People's 5 [sic].

9 MS. FILO: Thank you.

10 (Whereupon, People's Exhibit 4 was marked for
11 identification.)

12 MR. MADDEN: One moment, please, Your Honor. May I
13 consult with Ms. Filo?

14 THE COURT: Yes.

15 (Whereupon, there was a discussion off the record.)

16 THE COURT: You both stipulate to that?

17 MS. FILO: Yes, Your Honor.

18 MR. MADDEN: Yes.

19 THE COURT: So the portion of Becky's preliminary
20 examination transcript will be marked as People's 4, and do
21 you have page numbers, Ms. Filo?

22 MS. FILO: I do, Your Honor. It will run from page
23 7 to page 56 of the preliminary hearing transcript.

24 THE COURT: Okay. The other thing I request, once
25 you are done with your direct, if you'd note for the record
26 you will begin cross, redirect, recross, and that's the only
27 concern I have. Okay?

28 MS. FILO: Thank you, Your Honor.

1 THE COURT: So you could read at whatever speed you
2 like since it's not going to be transcribed by my court
3 reporter pursuant to stipulation; correct, Mr. Madden?

4 MR. MADDEN: Yes.

5 THE COURT: Ms. Filo.

6 MS. FILO: Thank you.

7 THE COURT: Okay.

8 MS. FILO: Your Honor, I should tell the jury, at
9 time of the preliminary hearing we referred to the witness as
10 B. instead of Becky, but the reference is to the witness who
11 testified this morning Becky.

12 THE COURT: You agree with that qualification, Mr.
13 Madden?

14 MR. MADDEN: I do.

15 THE COURT: Okay. Thank you.

16 (Whereupon, the record was read, not reported.)

17 THE COURT: Excuse me, Ms. Filo. You could
18 continue with a few more questions. If you want to find a
19 place to -- that is logical.

20 MS. FILO: We could do it now, Your Honor. I have
21 about 20 pages left.

22 THE COURT: Okay.

23 Ladies and gentlemen, we're going to take the
24 afternoon recess at this time. I will order all members of
25 the jury to report to the jury assembly room on the second
26 floor, and tomorrow at 9:00 o'clock we'll finish with the
27 reading of the transcript and continue with the witnesses.

28 Please remember the Court's admonition and we'll

1 see you tomorrow at 9:00 a.m.

2 (Whereupon, the jurors exited the courtroom and the
3 proceedings were had outside the presence of the jury.)

4 THE COURT: The jury has left the courtroom. Ms.
5 Filo, I'm assuming you have no objection that the exhibit,
6 Defense Exhibit B, Mr. Madden's copy of the attendance
7 record, that we could return that copy to him since we
8 substituted another copy of the other court exhibit.

9 MS. FILO: I have no objection.

10 THE COURT: We will return that to Mr. Madden at
11 this time.

12 MR. MADDEN: Thank you, Your Honor. I have a
13 question about Mr. Chandler. Apparently, Mr. Chandler was
14 not allowed to shave last night. Do we need to do anything
15 about that?

16 THE COURT: Put it on the minute order that
17 defendant be allowed to have showers and shave.

18 MR. MADDEN: Thank you.

19 THE COURT: And be dressed out, whatever we need to
20 put. Thank you.

21 We'll recess at this time. I'll order both counsel
22 and Mr. Chandler here tomorrow at 9:00 o'clock and we'll
23 continue.

24 MS. FILO: Thank you, Your Honor.

25 (Whereupon, the Court took the evening recess.)
26
27
28

1 STATE OF CALIFORNIA)
2 COUNTY OF SANTA CLARA)

4 I, JAMIE L. MIXCO, HEREBY CERTIFY THAT:

5 The foregoing is a full, true, and correct
6 transcript of the testimony given and proceedings had in the
7 above-entitled action taken on the above-entitled date; that
8 it is a full, true, and correct transcript of the evidence
9 offered and received, acts and statements of the Court, also
10 all objections of counsel, and all matters to which the same
11 relate; that I reported the same in stenotype to the best of
12 my ability, being the duly appointed and official
13 stenographic reporter of said Court, and thereafter had the
14 same transcribed into typewriting as herein appears.

15 I further certify that I have complied with CCP
16 237(a)(2) in that all personal juror identifying information
17 has been redacted if applicable.

18
19 Dated:

20
21
22 _____
23 Jamie L. Mixco, C.S.R.
Certificate No. 12708

24 ATTENTION:
25 CALIFORNIA GOVERNMENT CODE
SECTION 69954(D) STATES:

26 "ANY COURT, PARTY, OR PERSON WHO HAS PURCHASED A TRANSCRIPT
27 MAY, WITHOUT PAYING A FURTHER FEE TO THE REPORTER, REPRODUCE
28 A COPY OR PORTION THEREOF AS AN EXHIBIT PURSUANT TO COURT
ORDER OR RULE, OR FOR INTERNAL USE, BUT SHALL NOT OTHERWISE
PROVIDE OR SELL A COPY OR COPIES TO ANY OTHER PARTY OR
PERSON."